

---

---

# Commonwealth of Massachusetts Supreme Judicial Court

---

No. DAR-\_\_\_\_

Appeals Court Case No. 2025-P-1499

JOHN T. MARTIN and DANIELLE AMODEO,  
on behalf of themselves and all others similarly situated,

*Plaintiffs,*

v.

AMHERST COLLEGE,

*Defendant.*

ON APPEAL FROM A JUDGMENT OF THE SUPERIOR COURT FOR  
HAMPSHIRE COUNTY, NO. 2480CV00146

---

---

## JOINT APPLICATION FOR DIRECT APPELLATE REVIEW

---

---

RAYMOND DINSMORE, BBO # 667340  
RYAN GUERS, BBO # 713870  
RICHARD HAYBER, BBO # 569131  
HAYBER, MCKENNA  
& DINSMORE, LLC  
One Monarch Place, Suite 1340  
Springfield, Massachusetts 01144  
(413) 785-1400

FRANCIS J. BINGHAM BBO # 682502  
BROOK HOPKINS BBO # 683871  
BINGHAM HOPKINS LLC  
20 University Road, Suite 500  
Cambridge, MA 02138  
(617) 798-2302

*Attorneys for Plaintiffs*

ROBERT A. FISHER, BBO # 643797  
BARRY J. MILLER, BBO # 661596  
BETH L. SHERWOOD, BBO # 687866  
SEYFARTH SHAW LLP  
Seaport East  
Two Seaport Lane, Suite 1200  
Boston, Massachusetts 02210  
(617) 946-4800

GREGORY A. MANOUSOS, BBO# 631455  
CATHERINE M. SCOTT, BBO# 691867  
MORGAN, BROWN & JOY, LLP  
28 State Street, 16<sup>th</sup> Floor  
Boston, Massachusetts 02109  
(617) 523 6666

*Attorneys for Defendant*

## **CORPORATE DISCLOSURE STATEMENT**

Pursuant to Supreme Judicial Court Rule 1:21, Defendant-Appellee Amherst College certifies that it is a non-profit institution of higher education, has no parent corporation, and does not have any stock.

## TABLE OF CONTENTS

	Page
TABLE OF AUTHORITIES .....	4
I. JOINT REQUEST FOR DIRECT APPELLATE REVIEW.....	6
II. STATEMENT OF PRIOR PROCEEDINGS .....	9
III. STATEMENT OF RELEVANT FACTS.....	12
A. Background .....	12
B. The Massachusetts Legislature Passes Section 113 .....	12
C. The <i>Curtin-Wilding</i> Decision .....	12
IV. ISSUES OF LAW RAISED BY THIS APPEAL .....	14
V. PLAINTIFF’S ARGUMENTS ON APPEAL.....	15
A. Section 113 Creates an Impermissible Selective Exemption from Standing Laws in Violation of Article X of the Massachusetts Declaration of Rights .....	15
B. Section 113 is an Unreasonable Retroactive Statute Under the Federal and Massachusetts Constitutions.....	16
C. Section 113 Eliminates Any Remedy for Plaintiffs Untimely Payment of Wage in Violation of Article XI .....	19
VI. DEFENDANT’S ARGUMENTS ON APPEAL.....	20
A. Section 113 Applies to Plaintiffs’ Claims.....	21
B. Section 113 Applies Retroactively.....	21
C. Retroactive Application of Section 113 Is Constitutional .....	21
D. Section 113 Does Not Violate Articles X or XI of the Massachusetts Declaration of Rights .....	23
VII. REASONS WHY DIRECT APPELLATE REVIEW IS APPROPRIATE .....	23
VIII. CONCLUSION.....	25

## TABLE OF AUTHORITIES

	Page(s)
<b>Cases:</b>	
<i>Am. Mfrs. Mut. Ins. Co. v. Comm’r. of Ins.</i> , 374 Mass. 181 (1978) .....	20-21
<i>Brown v. President &amp; Fellows of Harvard Coll.</i> , No. 2581-cv-00143 (Mass. Super. Ct. Middlesex County 2025) .....	7, 9, 24
<i>Curtin-Wilding v. Trs. of Bos. Univ.</i> , No. CV 25-10432-RGS, 2025 WL 2469312 (D. Mass. Aug. 27, 2025).....	<i>passim</i>
<i>Decker v. Black &amp; Decker Mfg. Co.</i> , 389 Mass. 35 (1983) .....	23
<i>Doe v. Sex Offender Registry Bd.</i> , 450 Mass. 780 (2008) .....	17
<i>Dupont v. Chief of Police of Pepperell</i> , 57 Mass. App. Ct. 690 (2003).....	22
<i>Dutra v. Trs. of Bos. Univ.</i> , 96 F.4th 15 (1st Cir. 2024) .....	<i>passim</i>
<i>In re Opinion of Justices</i> , 211 Mass. 618 (1912).....	16
<i>In re Picquet</i> , 22 Mass. 65 (1827).....	16
<i>Landgraf v. USI Film Prods.</i> , 511 U.S. 244 (1994).....	16
<i>Leibovich v. Antonellis</i> , 410 Mass. 568 (1991) .....	20, 21
<i>Logan v. Zimmerman Brush Co.</i> , 455 U.S. 422 (1982).....	18
<i>MacIntyre v. Curry Coll.</i> , No. 1:25-10585-NMG (D. Mass. 2025) .....	7, 9
<i>Melia v. Zenhire, Inc.</i> , 462 Mass. 164 (2012) .....	18

<i>Miller v. Worcester Polytechnic Inst.,</i> No. 2585-cv-0810-C (Mass. Super. Ct. Worcester County 2025) .....	7, 9
<i>Monks v. Walgreen Eastern Co., Inc.,</i> No. 1:25-cv-12004-MJJC (D. Mass. 2025) .....	15
<i>Murphy v. Commissioner of the Department of Industrial Accidents,</i> 415 Mass. 218 (1993) .....	19
<i>Nantucket Conservation Found., Inc. v. Russell Mgmt., Inc.,</i> 380 Mass. 212 (1980) .....	21
<i>Oettinger v. Mass. Gen. Physicians’ Org., Inc.,</i> No. 2584-cv-00644-BLS (Mass. Super. Ct. Suffolk County 2025) .....	7, 24
<i>Paddock v. Town of Brookline,</i> 347 Mass. 230 (1964) .....	16
<i>U.S. Tr. Co. of New York v. New Jersey,</i> 431 U.S. 1 (1977).....	13
<i>Ventrice v. Ventrice,</i> 87 Mass. App. Ct. 190 (2015).....	19
<i>Wachusett Reg’l Sch. Dist. Comm. v. Erickson,</i> 353 Mass. 77 (1967) .....	16
<b>Statutes &amp; Other Authorities:</b>	
Acts and Resolves of 2025, c. 9, § 113 .....	<i>passim</i>
Declaration of Rights, Article X .....	<i>passim</i>
Declaration of Rights, Article XI.....	14, 19, 23
M.G.L. c. 149, § 148 .....	6, 7, 15
Mass. R. App. P. 11 .....	6
Mass. R. App. P. 11(a).....	24
Supreme Judicial Court Rule 1:21 .....	2

## **I. JOINT REQUEST FOR DIRECT APPELLATE REVIEW**

The issues raised in this action implicate billions of dollars in claimed statutory penalties against several non-profit institutions, along with the scope and constitutional limits of the Legislature’s power to enact retroactive immunity provisions that impact the statutory rights of tens of thousands of employees in the Commonwealth. As such, pursuant to Rule 11 of the Massachusetts Rules of Appellate Procedure, Plaintiffs-Appellants John T. Martin and Danielle Amodeo (“Plaintiffs”) and Defendant-Appellee Amherst College (“Defendant” or “Amherst”) (collectively, the “Parties”) respectfully request that this Court grant direct appellate review of the decision of the Hampshire County Superior Court (Manitsas, J.) granting Amherst’s motion for judgment on the pleadings.

This appeal involves the constitutionality of Section 113 of Chapter 9 of the Acts and Resolves of 2025 (“Section 113”), which was signed into law on July 4, 2025. Section 113 provides immunity to both nonprofit institutions of higher education and nonprofit organizations comprising a healthcare delivery system from lawsuits targeting the monthly payment of wages under the Massachusetts Wage Act (the “Wage Act”), M.G.L. c. 149, § 148. Section 113 states:

Nonprofit institutions of higher education and nonprofit organizations that comprise a health care delivery system shall be immune from liability with regard to any claim or cause of action seeking a legal or equitable remedy or other relief commenced between July 1, 2024 and September 30, 2028, inclusive, that alleges that the institution's or organization's payment of wages on a monthly basis or pursuant to any

written policy, schedule, or agreement presented or made available to an employee concerning payment for work performed over an academic term violated section 148 of chapter 149 of the General Laws; provided, however, that earned wages shall have been paid in full within 6 days of the termination of a pay period occurring: (i) on a monthly basis; or (ii) pursuant to any written policy, schedule or agreement presented to an employee concerning payment for work performed over a specific period or an academic term.

### Section 113.

On December 26, 2024, Plaintiffs filed a putative class action complaint in the Superior Court alleging that Amherst violated the Wage Act by paying them and other exempt employees on a monthly basis despite never electing to be paid monthly. Plaintiffs' complaint was the first of at least six other class action lawsuits filed in the ensuing six months challenging the monthly pay practices of colleges, universities, and healthcare systems.<sup>1</sup>

After the passage of Section 113, Amherst moved for judgment on the pleadings on the grounds that Section 113 provides clear and categorical statutory

---

<sup>1</sup> *Curtin-Wilding v. Trs. of Boston Univ.*, No. 1:12-cv-10432-RGS (D. Mass. 2025) (dismissed pursuant to Section 113); *MacIntyre v. Curry Coll.*, C.A. No. 1:25-10585-NMG (D. Mass. 2025) (dismissed pursuant to Section 113); *Brown v. President & Fellows of Harvard Coll.*, No. 2581-cv-00143 (Mass. Super. Ct. Middlesex County 2025) (motion for judgment on the pleadings seeking dismissal pursuant to Section 113 currently pending); *Oettinger v. Mass. Gen. Physicians' Org., Inc.*, No. 2584-cv-00644-BLS (Mass. Super. Ct. Suffolk County 2025) (motion for judgment on the pleadings seeking dismissal pursuant to Section 113 currently pending); *Miller v. Worcester Polytechnic Inst.*, No. 2585-cv-0810-C (Mass. Super. Ct. Worcester County 2025) (resolved by the parties and voluntarily dismissed with prejudice as to named plaintiff's individual claims).

immunity from all claims asserted by Plaintiffs in the Superior Court action. The Superior Court granted the motion “[f]or all the same reasons, as fully analyzed and outlined in *Curtin-Wilding v. Trs. of Boston Univ.*, C.A. No. 1:12-cv-10432-RGS (D. Mass. 2025).”<sup>2</sup> *Curtin-Wilding* upheld the constitutionality of Section 113 against the same challenges Plaintiffs raised below.

Plaintiffs contend that the Superior Court erred in upholding the constitutionality of Section 113 as applied to their claims, while Amherst maintains that both the Superior Court and the United States District Court in *Curtin-Wilding* correctly determined that Section 113 is constitutional and provides immunity to nonprofit institutions of higher education facing monthly pay claims under the Wage Act. The Parties request direct appellate review because: (1) the appeal raises constitutional challenges to Section 113 under the Constitutions of both the Commonwealth and the United States; and (2) the issues are of substantial public importance such that justice requires resolution by the full Supreme Judicial Court.

There are two other significant actions pending in the Superior Court that raise the same constitutional issues implicated here. One such case was filed against Massachusetts General Physicians’ Organization, Inc. on March 24, 2025. *See Oettinger*, No. 2584-cv-00644-BLS. A motion for judgment on the pleadings in that

---

<sup>2</sup> *Curtin-Wilding v. Trs. of Bos. Univ.*, No. CV 25-10432-RGS, 2025 WL 2469312 (D. Mass. Aug. 27, 2025). A copy of the *Curtin-Wilding* decision is included in the Addendum at p. 57.

action has been fully briefed, and argument was heard on November 13, 2025. A decision is pending at the time of this filing. The other action was filed against Harvard University on January 20, 2025.<sup>3</sup> *See Brown*, No. 2581-cv-00143. A motion for judgment on the pleadings in that action is fully briefed and awaiting a hearing to be scheduled. It is foreseeable that either or both of those cases may soon result in a parallel appeal on the same issues raised in this matter.

## II. STATEMENT OF PRIOR PROCEEDINGS

On December 26, 2024, Plaintiffs filed a Class Action Complaint alleging that Amherst violated the timely payment requirements of the Wage Act by paying exempt employees on a monthly basis, on the last business day of the month, rather than weekly, biweekly, or semimonthly. Compl. ¶ 13. Plaintiffs assert that Amherst should have paid them, and the Class they seek to represent,<sup>4</sup> for the work they performed during the first fifteen days of a month, no later than the 21st day of the month. *Id.* ¶¶ 20, 23, 35. Plaintiffs claim that Amherst is liable to them—and the

---

<sup>3</sup> Three other cases implicating Section 113 have been dismissed and will not be appealed. The plaintiff in the *Curtin-Wilding* action noted above did not appeal the dismissal of that case within the time allotted. Likewise, in the *MacIntyre* action, Judge Gorton granted Curry College’s motion to dismiss and entered an Order of Dismissal November 10, 2025, and Plaintiff MacIntyre did not appeal the dismissal within the time allotted. On November 21, 2015, the parties in the *Miller* action filed a Joint Stipulation of Dismissal with prejudice as to Plaintiff Miller’s claims.

<sup>4</sup> The Class is defined as: “All Massachusetts exempt staff, exempt trustee-appointed staff, and exempt faculty members employed by Defendant, who were paid monthly during the three years immediately preceding December 2, 2024 and continuing through the date of final judgment in this matter.” Compl. ¶ 26.

putative class—for statutory penalties, including treble damages on the late paid wages, plus interest, costs, and attorneys’ fees. *Id.* ¶ 36.

On March 5, 2025, Amherst filed its Answer, asserting a number of defenses, including: (1) that Plaintiffs have not suffered any economic harm and therefore an award of multiple damages would violate the due process provisions of the United States Constitution and analogous provisions of the Massachusetts Declaration of Rights (First Additional Defense); (2) that it acted in a good faith effort to comply with the law (Second Additional Defense); (3) that the Wage Act specifically authorizes monthly payment to employees of educational institutions (Fifth Additional Defense); (4) that any damages Plaintiffs may pursue are subject to the charitable immunity cap (Sixth Additional Defense); and (5) that Plaintiffs knowingly accepted a monthly basis of pay through an extended period of acquiescence (Ninth Additional Defense). Am. Answer pp. 5-9.

On August 20, 2025, following the enactment of Section 113, and after seeking leave of court to do so, Amherst filed an Amended Answer, asserting a Seventeenth Additional Defense: “All of Plaintiffs’ and the putative class members’ claims are barred in whole because Defendant has full immunity from such claims pursuant to the Acts and Resolves of 2025, Chapter 9, Section 113.” Am. Answer p. 9.

Shortly thereafter, on September 15, 2025, Amherst filed a Motion for Judgment on the Pleadings (the “MJOP”). In its MJOP, Amherst sought a complete dismissal of Plaintiffs’ claims on the grounds that Section 113 provided Amherst with clear and categorical statutory retroactive immunity from their claims. *Id.* Plaintiffs opposed, arguing: (1) that the motion was substantively premature, due to some discovery they sought on the provenance of Section 113 and Amherst’s historical wage payment practices; (2) that Section 113 constitutes an impermissible selective exemption to standing laws in violation of Article 10 of the Declaration of Rights to the Massachusetts Constitution; (3) that Section 113 is an unreasonable and inequitable retroactive statute under the United States and Massachusetts Constitutions; and (4) that, by stripping Plaintiffs and the putative class of all remedy for their untimely pay, Section 113 violates the remedies clause of Article 11 of the Massachusetts Declaration of Rights (the “Opposition”).

On October 30, 2025, the Superior Court issued a decision and order (the “Decision”), granting Amherst’s MJOP in its entirety and adopting the reasoning of the prior *Curtin-Wildling* ruling, which addressed all of the same issues raised in the parties’ briefing of the MJOP. Plaintiffs filed their Notice of Appeal in the Superior Court on November 5, 2025, and their appeal was docketed in the Appeals Court on December 8, 2025.

### **III. STATEMENT OF RELEVANT FACTS**

#### **A. Background**

Amherst College is a nonprofit institution of higher education. Compl. ¶ 4. Plaintiffs are both former employees of Amherst. Compl. ¶¶ 11, 12. During some or all of their employment, each held an exempt, salaried position. *Id.* Amherst paid exempt employees, including Plaintiffs, “on a monthly basis on the final business day of the month for the work performed during that month.” Compl. ¶ 13. Plaintiffs allege that Amherst failed to offer them and other exempt employees “an opportunity to elect to receive payment on a weekly, bi-weekly, or semi-monthly basis. Compl. ¶ 14. They further allege that neither they nor Amherst’s other exempt employees ever elected monthly payment. *Id.*

#### **B. The Massachusetts Legislature Passes Section 113**

On July 4, 2025, while discovery in the Superior Court action was underway, Governor Maura Healey signed legislation that included Section 113 into law. Section 113 provides immunity to both nonprofit institutions of higher education and nonprofit organizations comprising a healthcare delivery system from lawsuits challenging the monthly payment of wages.

#### **C. The *Curtin-Wilding* Decision**

In *Curtin-Wilding v. Trustees of Boston University*, the case upon which the Superior Court based its decision in its entirety—the plaintiff brought a similar monthly pay claim against Boston University. In that case, like here, Boston

University moved for judgment on the pleadings. In its decision, the United States District Court held that “the plain language of Section 113 immunizes [Boston University] from liability for [plaintiff’s] Wage Act claim that BU paid her on a monthly basis.” No. CV 25-10432-RGS, 2025 WL 2469312, at \*3. Applying the three-part test for evaluating the constitutionality of the retroactive application of a statute set forth in *Dutra v. Trs. of Bos. Univ.*, 96 F.4th 15, 19-20 (1st Cir. 2024),<sup>5</sup> the court held that retroactive application of Section 113 to the plaintiff’s claim was constitutional because Section 113: (i) “serves the public interest by addressing the devastating financial impact of these Wage Act claims to Massachusetts institutions of higher education;”<sup>6</sup> (ii) is “based upon “reasonable conditions and of a character appropriate to the public purpose justifying its adoption”;<sup>7</sup> and (iii) is narrowly tailored because it “will affect a relatively small number of cases and is narrowly drawn to address a public policy concern determined by the Legislature to be detrimental to the welfare of the Commonwealth.” *Id.* at \*4.

---

<sup>5</sup> “In evaluating the reasonableness of a retroactive statute, the court weighs three factors: (1) the nature of the public interest which explicitly or may have motivated the Legislature to enact the retroactive statute; (2) the nature of the rights affected retroactively and the reasonableness of any reliance expectations on those rights; and (3) the extent or scope of the statutory effect or impact, including whether the statute is appropriate and narrowly tailored.” *Id.* at \*3 (citing *Dutra*, 96 F.4th at 19-20).

<sup>6</sup> *Curtin-Wilding*, No. CV 25-10432-RGS, 2025 WL 2469312, at \*3 (relying on the three-part constitutionality analysis set forth in *Dutra v. Trs. of Bos. Univ.*, 96 F.4th 15, 19-20 (1st Cir. 2024)).

<sup>7</sup> *Id.* at \*4 (citing *U.S. Tr. Co. of New York v. New Jersey*, 431 U.S. 1, 22 (1977)).

Additionally, the *Curtin-Wilding* court held that Section 113 was not impermissible “special legislation” in violation of Article X of the Massachusetts Declaration of Rights but it did not directly address Plaintiff’s argument that Section 113 constituted an impermissible selective exemption to standing laws. Finally, the court held that Section 113 does not violate the remedies clause of Article XI of the Massachusetts Declaration of Rights. *Id.* at 12-13 (“the retroactive application of Section 113 to [the plaintiff’s] claim in this case is a reasonable exercise of the Legislature’s authority,” and Article XI’s guarantee “has never been construed to grant to any person a vested interest in any rule of law entitling [such person] to insist that it shall remain unchanged for his benefit”) (internal quotation and citations omitted).

#### **IV. ISSUES OF LAW RAISED BY THIS APPEAL**

1. Whether the retroactive application of Section 113 of Chapter 9 of the Acts of 2025 to claims pending prior to its enactment, which seek statutory penalties, comply with the due process requirements of the United States Constitution and Massachusetts Declaration of Rights.

2. Whether Section 113 is a selective exemption to Massachusetts standing laws in violation of Article X of the Massachusetts Declaration of Rights.

3. Whether the dismissal of pending claims brought under the Massachusetts Wage Act, M.G.L. ch. 149 § 148, pursuant to Section 113 violates the remedies clause of Article 11 of the Massachusetts Declaration of Rights.

Each issue was raised and properly preserved by Plaintiffs in the Superior Court.

## **V. PLAINTIFF’S ARGUMENTS ON APPEAL**

In rejecting Plaintiffs’ constitutional challenges to Section 113, the Superior Court erred by relying on the cursory analysis in *Curtin-Wilding*.

### **A. Section 113 Creates an Impermissible Selective Exemption from Standing Laws in Violation of Article X of the Massachusetts Declaration of Rights.**

In passing Section 113, the Legislature suspended enforcement of the Wage Act against a limited group of defendants engaged in active litigation, at the expense of thousands of employees asserting violations of the Commonwealth’s long-standing pay frequency requirements, while leaving all requirements of M.G.L. c. 149 § 148 fully enforceable against virtually all other employers in Commonwealth, including at least one currently facing the same claim.<sup>8</sup> Such selective enforcement constitutes an impermissible exemption from standing laws in violation of Article X of the Massachusetts Declaration of Rights, which guarantees each individual the

---

<sup>8</sup> See *Monks v. Walgreen Eastern Co., Inc.*, CA No. 1:25-cv-12004-MJJC (D. Mass 2025).

right to protection in “the enjoyment of [their] life, liberty, and property, according to the standing laws.”

It is well-established that the Legislature lacks the constitutional authority to suspend a general law for selected parties while leaving it in full force for everyone else. *See Paddock v. Town of Brookline*, 347 Mass. 230, 236 (1964) (quoting *In re Picquet*, 22 Mass 65, 71-72 (1827)). The SJC has rejected pending legislation that granted immunity to arbitrarily favored entities by exempting them equal civil liability imposed on others. *See In re Opinion of Justices*, 211 Mass. 618, 619 (1912). Section 113 presents the same constitutional defect by freeing a limited group of academic and healthcare institutions from liability under the Wage Act, to the detriment of their implicated workers only, while all other employers remain subject to the same statutory requirements. *See Wachusett Reg’l Sch. Dist. Comm. v. Erickson*, 353 Mass. 77, 80-81 (1967) (legislation may “confer a benefit on a named individual,” but may not do so by suspending the operation of a general law). The *Curtin-Wilding* decision failed to address these arguments under Article X.

**B. Section 113 is an Unreasonable Retroactive Statute Under the Federal and Massachusetts Constitutions.**

Retroactive statutes like Section 113 “raise particular concerns,” because the Legislature’s unmatched powers permits the sudden displacement of settled expectations without individualized consideration. *Landgraf v. USI Film Prods.*, 511 U.S. 244, 266 (1994). Such provisions must survive a three-part balancing test that

examines the nature of the public interest' served, the nature of right affected retroactively, and the scope of the statute's impact. *See Doe v. Sex Offender Registry Bd.*, 450 Mass. 780, 788 (2008). Section 113 fails this test.

First, Section 113 serves no public interest. Rather it advances the private interests of a limited group of favored employers at the expense of thousands of their employees. The *Curtin-Wilding* decision relied heavily on *Dutra v. Trs. Of Bos. Univ.*, which upheld a statute retroactively immunizing universities from facing novel common-law claims arising from good-faith compliance with COVID-19 public health orders. *See Dutra*, 96 F.4th 15 ( 1st Cir. 2024). *Dutra* identified the legitimate public interest of protecting colleges and universities from unforeseen liability resulting from their **lawful** compliance with public health directives. *Id.* Here, by contract, Defendant violated clear and long-standing Wage Act requirements, and the Legislature shielded Defendant from the predicable, clear, and uniformly enforced consequences of violating the Wage Act.

The *Curtin-Wilding* court, whose reasoning the Superior Court adopted, concluded that Section 113 served the public interest by shielding colleges and universities from the financial impact of pending Wage Act claims based on the importance of higher education to the Massachusetts economy. *See Curtin-Wiling*, No. CV 25-10432-RGS, 2025 WL 2469312, at \*7-\*8. However, Section 113 applies only to a small subset of the Commonwealth's hundreds of institutions of higher

education, as the vast majority of comply with the Wage Act's pay frequency requirements. Nothing about higher education as an industry prevents college and university employers from complying with the Wage Act. Further, by treating "economic significance" as a sufficient public interest over its employees' right to Wage Act protection, *Curtin-Wilding* sets a dangerous precedent by permitting selective retroactive immunity for favored industries.

Second, Section 113 retroactively impairs fundamental private rights. Plaintiffs and the putative class possess a vested property interest in their pending Wage Act claims. *See Logan v. Zimmerman Brush Co.*, 455 U.S. 422, 428 (1982) (a cause of action constitutes property protected by the Due Process Clause). Plaintiffs reasonably relied on the continued application of the Wage Act when they undertook the time, expense, and reputational risk necessary to commence this action. Section 113 also deprives Plaintiffs of fair and equal treatment under the law by singling them out for retroactive extinguishment of their pending Wage Act claims. Wage Act claims are so fundamental to Massachusetts public policy that they may not be contracted away by employers. *See Melia v. Zenhire, Inc.*, 462 Mass. 164, 170-171 (2012).

Third, Section 113 neither avoids excessive impingement on private rights nor narrowly advances serves its purported interest. Rather than limiting or adjusting available remedies, Section 113 eliminates Plaintiffs' claims entirely. Even

assuming protection of universities' financial interests could qualify as a public interest, the Legislature could have limited damages, narrowed available remedies, or imposed an intent requirement. Instead, it chose the most extreme option, wholly foreclosing thousands of employees' claims.

**C. Section 113 Eliminates Any Remedy for Plaintiffs Untimely Payment of Wage in Violation of Article XI.**

Article 11 of the Massachusetts Declaration of Rights guarantees a certain remedy through recourse to the laws for all injuries to a person, property, of character. Section 113 forecloses that guarantee by barring certain employees from pursuing pending Wage Act claims. The SJC has invalidated far less restrictive procedural barriers under Article XI. *See Murphy v. Commissioner of the Department of Industrial Accidents*, 415 Mass. 218, 233 (1993) (striking filing fee imposed on a subset of litigants); *Ventrice v. Ventrice*, 87 Mass. App. Ct. 190, 193 to 194 (2015) (invalidating mandatory mediation requirement as a precondition to suit).

**VI. DEFENDANT'S ARGUMENTS ON APPEAL**

The Superior Court correctly relied on the reasoning and analysis in *Curtin-Wilding* to reject all of the challenges Plaintiffs have raised as to the validity of Section 113 and determine that it provides statutory immunity to Amherst from all of their claims.

**A. Section 113 Applies to Plaintiffs’ Claims.**

Plaintiffs’ claims fall squarely within the immunity provided by Section 113. Plaintiffs affirmatively pled that Amherst is an institution of higher education (Compl. ¶ 4), and its non-profit status is a matter of public record. They filed their complaint on December 26, 2024—squarely within the immunity window—and their claims challenge Amherst’s monthly pay schedule. Accordingly, Plaintiffs’ pleadings place their claims within the immunity provided by Section 113.

**B. Section 113 Applies Retroactively.**

The Superior Court and the court in *Curtin-Wilding* correctly upheld the retroactive application of Section 113, which applies to claims “commenced” after July 1, 2024, regardless of when the wage payments occurred. Plaintiffs’ complaint was filed in December 2024 and therefore falls within the immunity window.

**C. Retroactive Application of Section 113 Is Constitutional.**

The Superior Court and the *Curtin-Wilding* Court correctly found the retroactive application of Section 113 constitutional. “A legislative enactment carries with it a presumption of constitutionality, and the challenging party must demonstrate beyond a reasonable doubt that there are no ‘conceivable grounds’ which could support its validity.” *Leibovich v. Antonellis*, 410 Mass. 568, 984 (1991). Retroactive legislation satisfies due process if it serves “a legitimate legislative purpose furthered by rational means.” *Dutra v. Trs. of Bos. Univ.*, 96 F.4th 15, 19 (1st Cir. 2024) (internal quotation and citation and omitted); *see also Am.*

*Mfrs. Mut. Ins. Co. v. Comm’r. of Ins.*, 374 Mass. 181, 190 (1978) (“[W]e apply the test of reasonableness to the retroactive aspect of [a statute].”).<sup>9</sup>

In evaluating the reasonableness of a retroactive statute, courts consider: (1) the nature of the public interest which explicitly or may have motivated the Legislature to enact the retroactive statute; (2) the nature of the rights affected retroactively and the reasonableness of any reliance expectations on those rights; and (3) the extent or scope of the statutory effect or impact, including whether the statute is appropriate and narrowly tailored. *Dutra*, 96 F.4th at 20 (citing *Leibovich*, 410 Mass. at 577).

The Superior Court adopted the reasoning of the *Curtin-Wilding* court, which found that Section 113 satisfied all three of the *Dutra* factors. First, *Curtin-Wilding* reasoned that the Legislature acted in the public interest when it undertook to protect higher education, a sector vital to Massachusetts’ economy and workforce, from lawsuits seeking hundreds of millions of dollars—and in some cases, billions of dollars—in penalties, where no employee claimed to have been underpaid by a single cent or to have been paid later than promised. Plaintiffs themselves demanded “millions” (Compl. ¶ 3) in damages in this case (indeed, the amount at issue was

---

<sup>9</sup> “The legal analysis of whether retroactive statutes violate the Due Process Clause of the United States Constitution is that also followed as to the Massachusetts Constitution.” *Dutra*, 96 F.4th at 19 (citing *Nantucket Conservation Found., Inc. v. Russell Mgmt., Inc.*, 380 Mass. 212, 503 (1980)).

hundreds of millions), while conceding employees were paid in full and on the schedule that Amherst promised. Courts have routinely held that legislation protecting the viability of institutions of higher education legitimately protect the public interest. *Dutra*, 96 F.4th at 22 (finding retroactive application of statute providing immunity to colleges and universities constitutional, noting “[t]he Legislature is well aware that Massachusetts is home to a number of colleges and universities, and they are vital to the state’s economy”).

Second, the *Curtin-Wilding* court properly determined that the plaintiff had not proven that she “would have acted differently had [she] known [Section 113] would be enacted.” *Curtin-Wilding*, 2025 WL 2469312 at \*4 (citing *Dupont v. Chief of Police of Pepperell*, 57 Mass. App. Ct. 690, 694 (2003) (parties challenging the reasonableness of a retroactive statute “must show that they acted in reasonable reliance upon the previous state of law” and “would not have acted differently had [they] known [the statute at issue] would be enacted”)).

Finally, the *Curtin-Wilding* court appropriately determined that “the extent of the impact [of Section 113] is not excessive.” *Id.* at \*4 (citing *Dutra*, 96 F.4th at 25 (courts “weigh the duration of the burden imposed by the retroactive statute and whether the scope of the statute is narrowly drawn to treat the problem perceived by the legislature”) (internal citation omitted)). It reasoned that “[t]he statute will affect a relatively small number of cases and is narrowly drawn to address a public policy

concern determined by the Legislature to be detrimental to the welfare of the Commonwealth.” *Id.*

**D. Section 113 Does Not Violate Articles X or XI of the Massachusetts Declaration of Rights.**

The Superior Court properly adopted the *Curtin-Wilding* court’s reasoning that Section 113 does not violate Article X of the Massachusetts Declaration of Rights. In rejecting the argument that Section 113 violates Article X, the *Curtin-Wilding* court held that “Section 113 applies equally to all nonprofit institutions of higher education – it does not benefit an individual in the way Article X prohibited” and correctly determined that it is not the type of prohibited “special legislation that singles out any person for special privileges or advantages at the expense of rights of another.” 2025 WL 2469312, at \*5.

Similarly, the *Curtin-Wilding* court properly determined that Section 113 does not violate Article XI of the Declaration of Rights. The *Curtin-Wilding* court held that the application of Section 113 to the plaintiff’s claims was a reasonable exercise of the Legislature’s authority and that Article XI “has never been construed to grant to any person ‘a vested interest in any rule of law entitling [such person] to insist that it shall remain unchanged for his benefit.’” 2025 WL 2469312, at \*5 (citing *Decker v. Black & Decker Mfg. Co.*, 389 Mass. 35, 44 (1983) (alteration in original)).

**VII. REASONS WHY DIRECT APPELLATE REVIEW IS APPROPRIATE**

Direct appellate review is appropriate for two independent reasons.

*First*, this appeal presents questions regarding the constitutionality of Section 113 under both the Massachusetts and United States Constitutions. *See* Mass. R. App. P. 11(a). More generally, this appeal presents questions about the circumstances in which the Legislature may, within the bounds of the U.S. and Massachusetts constitutions, afford retroactive immunity to a party or sector that is subject to claims for penalties under a statute enacted by that Legislature.

*Second*, this case presents an issue of substantial public interest and justice requiring a final determination by the full Supreme Judicial Court. *See* Mass. R. App. P. 11(a). Defendant contends that Section 113 provides a vital form of limited immunity to nonprofit institutions of higher education and healthcare delivery systems across the Commonwealth from complaints placing hundreds of millions of dollars in statutory penalties in controversy. Collectively, the constitutionality of Section 113 implicates claims for many *billions* of dollars in such penalties<sup>10</sup> against various non-profit institutions under the Wage Act<sup>11</sup>—despite the fact that Plaintiffs in these cases do not dispute that they were paid all wages due to them.

---

<sup>10</sup> For example, the case against Massachusetts General Physicians' Organization, Inc. implicates tens of thousands of salaried employees of the largest private employer in the Commonwealth and a bid for billions of dollars in penalties against a non-profit healthcare institution. *See Oettinger*, No. 2584-cv-00644-BLS. Likewise, the case against Harvard University similarly implicates a substantial number of that institution's salaried employees and billions of dollars in statutory penalties. *See Brown*, No. 2581-cv-00143.

<sup>11</sup> As set forth above, there have been five other actions implicating Section 113. Some combination of the attorneys of record for Plaintiffs in this action also

Without clarity from this Court regarding the scope of immunity conferred by Section 113, these employers face uncertainty in compliance and exposure, and employees face uncertainty in their rights. A definitive ruling by this Court will provide the guidance necessary for employers who fall within the scope of Section 113 and the plaintiffs who have asserted Wage Act claims that have since been dismissed.

### **VIII. CONCLUSION**

For the foregoing reasons, Plaintiffs-Appellants John T. Martin and Danielle Amodeo together with Defendant-Appellee Amherst College jointly and respectfully request that this Court grant direct appellate review.

---

represented the plaintiffs in all of those cases. Defendant's counsel in this matter also represents each of the defendants in those cases.

Respectfully submitted,

*/s/ Raymond Dinsmore*

Raymond Dinsmore (BBO # 667340)  
Richard E. Hayber (BBO # 569131)  
Ryan B. Guers (BBO # 713870)  
Hayber, McKenna, & Dinsmore, LLC  
One Monarch place, Suite 1340  
Springfield, MA 01144  
Phone: (413) 785-1400  
Fax: (860) 218-9555  
rdinsmore@hayberlawfirm.com  
rguers@hayberlawfirm.com  
rhayber@hayberlawfirm.com

Francis J. Bingham (BBO # 682502)  
Brook Hopkins (BBO # 683871)  
Bingham Hopkins LLC  
20 University Road, Suite 500  
Cambridge, MA 02138  
(617) 798-2302  
francis.bingham@binghamhopkins.com  
brook.hopkins@binghamhopkins.com

*Attorneys for Plaintiffs*

*John T. Martin and Danielle Amodeo,  
on behalf of themselves and all others  
similarly situated*

*/s/ Barry J. Miller*

Robert A. Fisher (BBO # 643797)  
Barry J. Miller (BBO # 661596)  
Beth L. Sherwood (BBO # 687866)  
SEYFARTH SHAW LLP  
Seaport East  
Two Seaport Lane, Suite 1200  
Boston, Massachusetts 02210  
(617) 946-4800  
(617) 946-4801 (Fax)  
rfisher@seyfarth.com  
bmiller@seyfarth.com  
bsherwood@seyfarth.com

Gregory A. Manousos (BBO # 631455)  
Catherine M. Scott (BBO # 691867)  
MORGAN, BROWN & JOY, LLP  
28 State Street, 16<sup>th</sup> Floor  
Boston, MA 02109  
(617) 523-6666  
(617) 367-3125 (Fax)  
gmanousos@morganbrown.com  
cscott@morganbrown.com

*Attorneys for Defendant  
Amherst College*

# **ADDENDUM**

## ADDENDUM TABLE OF CONTENTS

	<b>Page</b>
Docket Entries.....	29
Class Action Complaint and Jury Demand, filed December 26, 2024.....	35
Amended Answer to Complaint, filed August 20, 2025 .....	44
Decision and Order on Defendant’s Motion for Judgment on the Pleadings, dated October 30, 2025.....	55
<i>Curtin-Wilding v. Boston University</i> , Memorandum and Order on Motion for Judgment on the Pleadings, Motion to Amend the Complaint, and Motion to Certify Questions of Law, dated August 28, 2025 .....	57

**2480CV00146 Martin, John T. et al vs. Amherst College**

- Case Type:
- Contract / Business Cases
- Case Status:
- Open
- File Date
- 12/26/2024
- DCM Track:
- F - Fast Track
- Initiating Action:
- Employment Contract
- Status Date:
- 10/31/2025
- Case Judge:
- 
- Next Event:
- 

[All Information](#) [Party](#) [Event](#) [Tickler](#) [Docket](#) [Disposition](#)

**Party Information**

**Martin, John T.**  
- Plaintiff

**Alias**

**Party Attorney**

- Attorney
- Bingham, Esq., Francis Joseph
- Bar Code
- 682502
- Address
- Bingham Hopkins LLC
- 20 University Rd
- Suite 500
- Cambridge, MA 02138
- Phone Number
- (617)798-2302
- Attorney
- Dinsmore, Esq., Raymond
- Bar Code
- 667340
- Address
- Hayber, McKenna and Dinsmore, LLC
- One Monarch Place
- Suite 1340
- Springfield, MA 01144
- Phone Number
- (413)785-1400
- Attorney
- Guers, Esq., Ryan B
- Bar Code
- 713870
- Address
- Hayber, McKenna and Dinsmore, LLC
- One Monarch Place
- Suite 1340
- Springfield, MA 01144
- Phone Number
- (413)785-1400
- Attorney
- Hayber, Esq., Richard E
- Bar Code
- 569131
- Address
- Hayber, McKenna and Dinsmore, LLC
- 750 Main St Suite 904
- Hartford, CT 06103
- Phone Number
- (860)522-8888
- Attorney
- Hopkins, Esq., Brook
- Bar Code

- 683871
- Address
- Bingham Hopkins LLC  
20 University Rd  
Suite 500  
Cambridge, MA 02138
- Phone Number
- (617)798-2300

[More Party Information](#)

**Amodeo, Danielle**  
- Plaintiff

**Alias**

**Party Attorney**

- Attorney
- Bingham, Esq., Francis Joseph
- Bar Code
- 682502
- Address
- Bingham Hopkins LLC  
20 University Rd  
Suite 500  
Cambridge, MA 02138
- Phone Number
- (617)798-2302
- Attorney
- Dinsmore, Esq., Raymond
- Bar Code
- 667340
- Address
- Hayber, McKenna and Dinsmore, LLC  
One Monarch Place  
Suite 1340  
Springfield, MA 01144
- Phone Number
- (413)785-1400
- Attorney
- Guers, Esq., Ryan B
- Bar Code
- 713870
- Address
- Hayber, McKenna and Dinsmore, LLC  
One Monarch Place  
Suite 1340  
Springfield, MA 01144
- Phone Number
- (413)785-1400
- Attorney
- Hayber, Esq., Richard E
- Bar Code
- 569131
- Address
- Hayber, McKenna and Dinsmore, LLC  
750 Main St Suite 904  
Hartford, CT 06103
- Phone Number
- (860)522-8888
- Attorney
- Hopkins, Esq., Brook
- Bar Code
- 683871
- Address
- Bingham Hopkins LLC  
20 University Rd  
Suite 500  
Cambridge, MA 02138
- Phone Number
- (617)798-2300

[More Party Information](#)

**Amherst College**  
- Defendant

**Alias**

**Party Attorney**

- Attorney
- Fisher, Esq., Robert Alan
- Bar Code
- 643797
- Address
- Seyfarth Shaw LLP  
Two Seaport Lane Suite 1200

- Boston, MA 02210
- Phone Number
- (617)946-4996
- Attorney
- Manousos, Esq., Gregory A
- Bar Code
- 631455
- Address
- Morgan, Brown and Joy LLP
- 28 State St
- 16th Floor
- Boston, MA 02109
- Phone Number
- (617)523-6666
- Attorney
- Miller, Esq., Barry James
- Bar Code
- 661596
- Address
- Seyfarth Shaw LLP
- Two Seaport Lane
- Suite 1200
- Boston, MA 02210
- Phone Number
- (617)946-4800
- Attorney
- Papandrea, Esq., Robert C
- Bar Code
- 711504
- Address
- Morgan, Brown and Joy, LLP
- 28 State St
- 16th Floor
- Boston, MA 02109
- Phone Number
- (844)830-7052
- Attorney
- Scott, Esq., Catherine Marie
- Bar Code
- 691867
- Address
- Morgan Brown and Joy LLP
- 28 State St
- 16th Floor
- Boston, MA 02109
- Phone Number
- (617)523-6666
- Attorney
- Sherwood, Esq., Elizabeth L
- Bar Code
- 687866
- Address
- Seyfarth Shaw LLP
- Seaport East Two Seaport Lane
- Suite 1200
- Boston, MA 02210
- Phone Number
- (617)946-4812

[More Party Information](#)

**Events**

<u>Date</u>	<u>Session</u>	<u>Location</u>	<u>Type</u>	<u>Event Judge</u>	<u>Result</u>
03/19/2025 02:00 PM	Civil A	NTH - 3rd FL, CR 2 (SC)	Rule 20 Hearing		Held as Scheduled
10/23/2025 02:00 PM	Civil A	NTH - 3rd FL, CR 2 (SC)	Hearing for Judgment on Pleading	Manitsas, Hon. James M	Held - Under advisement

**Ticklers**

<u>Tickler</u>	<u>Start Date</u>	<u>Due Date</u>	<u>Days Due</u>	<u>Completed Date</u>
Service	12/27/2024	03/27/2025	90	10/31/2025
Answer	12/27/2024	04/28/2025	122	10/31/2025

<u>Tickler</u>	<u>Start Date</u>	<u>Due Date</u>	<u>Days Due</u>	<u>Completed Date</u>
Rule 12/19/20 Served By	12/27/2024	04/28/2025	122	03/19/2025
Rule 12/19/20 Filed By	12/27/2024	05/27/2025	151	03/19/2025
Rule 12/19/20 Heard By	12/27/2024	06/25/2025	180	03/19/2025
Rule 15 Served By	12/27/2024	04/28/2025	122	10/31/2025
Rule 15 Filed By	12/27/2024	05/27/2025	151	10/31/2025
Rule 15 Heard By	12/26/2024	06/24/2025	180	10/31/2025
Discovery	12/27/2024	09/02/2025	249	10/31/2025
Rule 56 Served By	12/27/2024	02/09/2026	409	10/31/2025
Rule 56 Filed By	12/27/2024	03/09/2026	437	10/31/2025
Final Pre-Trial Conference	12/27/2024	07/07/2026	557	10/31/2025
Judgment	12/27/2024	03/15/2027	808	10/31/2025
Under Advisement	10/23/2025	11/22/2025	30	10/31/2025

**Docket Information**

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
12/26/2024	Complaint electronically filed.	1	
12/26/2024	Civil action cover sheet filed.	2	
12/27/2024	Case assigned to: DCM Track F - Fast Track was added on 12/27/2024		
01/13/2025	Service Returned for defendant Amherst College: Service accepted by counsel.	3	
01/27/2025	Attorney appearance electronically filed.On this date Gregory A Manousos, Esq. added for Defendant Amherst College	4	
01/27/2025	Attorney appearance electronically filed.On this date Catherine Marie Scott, Esq. added for Defendant Amherst College	5	
02/03/2025	Defendant Amherst College's EMERGENCY Motion to extend the time to file a responsive pleading and to request a status conference and case-specific management.	6	
02/03/2025	Endorsement on Motion to file a response of pleading and to request a status conference and case specific management (#6.0): ALLOWED  Judge: Cahillane, Hon. Michael A		
02/13/2025	Attorney appearance electronically filed. On this date Robert C Papandrea, Esq. added for Defendant Amherst College.	7	
02/20/2025	Attorney appearance electronically filed. Robert Alan Fisher, Esq. added for Defendant Amherst College.	8	
02/20/2025	Attorney appearance electronically filed. On this date Barry James Miller, Esq. added for Defendant Amherst College.	9	
02/20/2025	Attorney appearance electronically filed. On this date Elizabeth L Sherwood, Esq. added for Defendant Amherst College.	10	
03/05/2025	Defendant Amherst College: Answer to original complaint.	11	
03/19/2025	Event Result:: Rule 20 Hearing scheduled on: 03/19/2025 02:00 PM Has been: Held as Scheduled Hon. Bertha D Josephson, Presiding Staff: Daniel R. Carey, Clerk of Courts		
03/19/2025	ORDER: on Rule 12  Judge: Josephson, Hon. Bertha D	12	
03/27/2025	Defendant Amherst College's Notice of Change of Address.	13	
06/05/2025	Plaintiff, Defendant John T. Martin, Danielle Amodeo, Amherst College's Joint Motion for leave to modify tracking order	14	

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
06/16/2025	Endorsement on Motion for Leave to Modify Tracking Order (#14.0): ALLOWED		
08/15/2025	Defendant Amherst College's Motion for leave to file amended answer.	15	 <a href="#">Image</a>
08/15/2025	Opposition to Defendant's motion to amend answer, filed by John T. Martin	15.1	 <a href="#">Image</a>
08/15/2025	Reply/Sur-reply Defendant's reply in support of its motion for leave to file amended answer.	15.2	 <a href="#">Image</a>
08/15/2025	Defendant Amherst College's Notice of filing in Superior Court Rule 9A.	15.3	 <a href="#">Image</a>
08/15/2025	Defendant Amherst College's Motion for protective order staying discovery.	16	 <a href="#">Image</a>
08/15/2025	Opposition to Defendant's motion for protective order to stay discovery, filed by John T. Martin	16.1	 <a href="#">Image</a>
08/15/2025	Reply/Sur-reply Defendant's reply in support of motion for protective order to stay discovery.	16.2	 <a href="#">Image</a>
08/15/2025	Defendant Amherst College's Notice of filing in Superior Court Rule 9A.	16.3	 <a href="#">Image</a>
08/19/2025	Endorsement on Motion for leave to file amended answer (#15.0): ALLOWED Discovery deadline on topics of prior knowledge of legislation and payment in full to class members extended to November 23, 2025  Judge: Manitsas, Hon. James M		 <a href="#">Image</a>
08/20/2025	Received from Defendant Amherst College: Answer to original complaint; Amended	17	 <a href="#">Image</a>
08/21/2025	Defendant Amherst College's Submission of Superior Court Rule 9E Notice of Motion for Judgment on the pleadings.	18	 <a href="#">Image</a>
09/15/2025	Defendant Amherst College's Motion for judgment on the pleadings MRCP 12(c)	19	 <a href="#">Image</a>
09/15/2025	Amherst College's Memorandum in support of its motion for judgment on the pleadings.	19.1	 <a href="#">Image</a>
09/15/2025	Opposition to #19, Defendant's motion for judgment on the pleadings filed by John T. Martin, Danielle Amodeo	19.2	 <a href="#">Image</a>
09/15/2025	Reply/Sur-reply Defendant's reply in support of its motion for judgment on the pleadings.	19.3	 <a href="#">Image</a>
09/15/2025	Defendant Amherst College's Submission of Superior Court Rule 9A Notice of Filing.	19.4	 <a href="#">Image</a>
09/15/2025	Defendant Amherst College's Notice of supplemental authority in support of motion for judgment on the pleadings.	20	 <a href="#">Image</a>
10/20/2025	Attorney appearance On this date Francis Joseph Bingham, Esq. and Brook Hopkins, Esq. added for Plaintiff's John T. Martin and Danielle Amodeo	21	 <a href="#">Image</a>
10/23/2025	Matter taken under advisement: Hearing for Judgment on Pleading scheduled on: 10/23/2025 02:00 PM Has been: Held - Under advisement Hon. James M Manitsas, Presiding Staff: Daniel R. Carey, Clerk of Courts		
10/30/2025	Endorsement on Motion for judgment on the pleadings MRCP 12(c) (#19.0): ALLOWED See Decision & Order #22		 <a href="#">Image</a>
10/30/2025	MEMORANDUM & ORDER:  on Defendant's Motion for Judgment on the pleadings  Judge: Manitsas, Hon. James M	22	 <a href="#">Image</a>
10/31/2025	JUDGMENT on the Pleadings entered:  After hearing and consideration thereof;  It is ORDERED and ADJUDGED:	23	 <a href="#">Image</a>

<u>Docket Date</u>	<i>Docket Text</i>	<u>File Ref Nbr.</u>	<i>Image Avail.</i>
	The complaint of plaintiffs, John Martin and Danielle Amodoe, on behalf of themselves and all others similarly situated is hereby dismissed as to defendant Amherst College.		
11/05/2025	Notice of appeal filed.  Applies To: Martin, John T. (Plaintiff); Amodoe, Danielle (Plaintiff)	24	 <a href="#">Image</a>
11/06/2025	Plaintiff John T. Martin, Danielle Amodoe's Notice of ordering transcript and audio for appeal	25	 <a href="#">Image</a>
11/20/2025	Transcript received Motion for Judgment on the Pleadings Hearing	46	 <a href="#">Image</a>
11/24/2025	Appeal: Statement of the Case on Appeal (Cover Sheet).	47	 <a href="#">Image</a>
11/24/2025	Notice of assembly of record sent to Counsel	48	 <a href="#">Image</a>
11/24/2025	Notice to Clerk of the Appeals Court of Assembly of Record	49	 <a href="#">Image</a>
12/09/2025	Notice of Entry of appeal received from the Appeals Court No. 2025-P-1499	50	 <a href="#">Image</a>

<b>Case Disposition</b>		
<u>Disposition</u>	<u>Date</u>	<u>Case Judge</u>
Disposed by Court Finding	10/31/2025	

RECEIVED

COMMONWEALTH OF MASSACHUSETTS  
SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT

HAMPSHIRE, ss.

CIVIL ACTION NO.:

JOHN T. MARTIN and DANIELLE  
AMODEO, on behalf of themselves and all  
others similarly situated,

Plaintiffs,

v.

AMHERST COLLEGE,

Defendant.

**CLASS ACTION COMPLAINT AND JURY DEMAND**

**I. INTRODUCTION**

1. Employers in Massachusetts must pay their exempt employees weekly, bi-weekly, or semi-monthly, unless an employee specifically elects to be paid monthly. *See* The Massachusetts Wage Act (the “Wage Act”), M.G.L. c. 149 § 148 (emphasis added). Employers must pay all wages due to an employee within six days of the termination of the pay period in which such wages were earned. *Id.* Employers who violate these rules and fail to pay their employees within the deadlines required by the Wage Act owe their employees damages in an amount equal to three times their unpaid and/or late paid wages, plus interest, attorneys’ fees, and costs. *See* M.G.L. c. 149 § 150; *see also Reuter v. City of Methuen*, 184 N.E.3d 772, 781 (Mass. 2022).

2. Here, Defendant, Amherst College (“Defendant”), maintains a policy to pay its exempt employees, including its exempt staff members, trustee-appointed staff members, and faculty members, on the final business day of each month, even though its exempt employees did

not elect to be paid monthly. *See* M.G.L. c. 149 § 148. Accordingly, Defendant should pay its exempt employees no less frequently than semi-monthly, and within six days of the termination of the pay period in which such wages were earned. *Id.* Defendant's policy of paying its exempt employees on the last business day of the month results in all wages earned in the first half of the month being paid, at a minimum, approximately ten days late, in violation of the Wage Act. *Id.*

3. Defendant's illegal payroll policies resulted in the withholding of millions of dollars in wages over the last three years, causing harm to Plaintiffs, John T. ("J.T.") Martin ("Plaintiff Martin") and Danielle Amodeo ("Plaintiff Amodeo") (Plaintiff Martin and Plaintiff Amodeo, collectively, "Plaintiffs") and all other similarly situated exempt employees (the "Class") (as defined below in Section V ¶ 26).

## II. PARTIES

4. Defendant, Amherst College, is a private liberal arts college, located at 220 South Pleasant Street, Hampshire County, Amherst, Massachusetts 01002. The College's principal officer is Michael A. Elliott, whose mailing address is PO Box 5000, Controller's Office, Amherst, Hampshire County, MA 01002.

5. Plaintiff, J.T. Martin, is an adult resident of Hampden County, Massachusetts.

6. Plaintiff, Danielle Amodeo, is an adult resident of Brooklyn County, New York.

## III. JURISDICTION

7. This Court has jurisdiction over this matter pursuant to M.G.L. c. 149 §§ 148; 150 and M.G.L. c. 223A §§ 2; 3.

8. Venue is proper pursuant to M.G.L. c. 223 § 1.

9. On December 13, 2024, Plaintiff Martin received authorization from the Massachusetts Office of the Attorney General, Fair Labor Division, to pursue their claims for

late paid wages, on behalf of herself, and on behalf of all other similarly situated employees, against Defendant (copy of Private Right of Action Authorization attached as Exhibit “A”).

10. On December 18, 2024, Plaintiff Amodeo received authorization from the Massachusetts Office of the Attorney General, Fair Labor Division, to pursue her claims for late paid wages, on behalf of herself, and on behalf of all other similarly situated employees, against Defendant (copy of Private Right of Action Authorization attached as Exhibit “B”).

#### IV. FACTS

11. Defendant employed Plaintiff Martin from August 7, 2017 until the date of their separation on August 31, 2023. Defendant employed Plaintiff Martin as the Director of the Queer Resource Center and, most recently, at the Interim Assistant Dean of Students for Identity & Cultural Resources, where they earned an annual salary in the approximate amount of \$115,000.00<sup>1</sup>.

12. Defendant employed Plaintiff Amodeo from January 2017 until the date of her resignation on June 1, 2022. During her employment, Plaintiff Amodeo held the titles of Public Programs and Marketing Coordinator, Public Programs and Marketing Specialist, and most recently, Associate Director of Communications and Public Programs for its Mead Art Museum and paid her an annual salary in the amount of \$79,838.14.<sup>2</sup>

13. At all times relevant to this action Defendant paid Plaintiffs and the Class on a monthly basis on the final business day of the month for the work performed during that month.

---

<sup>1</sup> Effective December 1, 2021, Plaintiff Martin received a pay increase from \$72,000 per year to \$86,695.43 per year. Effective February 1, 2022, Plaintiff Martin received an additional salary increase from \$86,695.43 per year to approximately \$115,000.00 per year for the remainder of their employment with Defendant.

<sup>2</sup> On November 1, 2021, Plaintiff Amodeo was promoted from a non-exempt role to the exempt role of Associate Director of Communications and Public Programs, with an annual salary in the amount of \$65,000.00. Following Plaintiff Amodeo’s resignation on June 1, 2022, Defendant’s Human Resources office confirmed that Plaintiff Amodeo’s November 1, 2021 promotion should have been issued with a 9% salary increase on her previous wages, thus resulting in a salary of \$75,319.00. Thereafter, on April 1, 2022, Defendant issued a staff-wide cost of living increase, which should have raised Plaintiff Amodeo’s salary to \$79,838.14.

14. Defendant failed to offer Plaintiffs and the Class an opportunity to elect to receive payment on a weekly, bi-weekly, or semi-monthly basis. Further, neither Plaintiffs nor the Class ever elected to be paid monthly rather than weekly, bi-weekly, or semi-monthly.

15. Defendant's Staff Handbook states that "[e]xempt employees are paid monthly on the last business day of the month."

16. Defendant's Trustee-Appointed Staff Handbook states that "[e]xempt [trustee-appointed staff] employees are paid monthly on the last business day for the current month."

17. Defendant's Faculty Handbook states that "[a]nnual faculty salaries are for nine months' work but are paid in twelve equal installments on the last day of each month, July 31 through June 30, inclusive."

18. Defendant's Monthly Payroll Schedule shows that Plaintiffs and the Class receive their monthly salary payment on the final business day of the applicable month.

19. For example, on June 30, 2023, Defendant paid Plaintiff Martin in the gross amount of approximately \$9,583.33<sup>3</sup> for the pay period commencing on June 1, 2023, and ending June 30, 2023, even though Plaintiff Martin never elected to be paid monthly.

20. Defendant should have paid Plaintiff Martin in the gross amount of approximately \$4,791.67 no later than June 21, 2023 for the work they performed during the first fifteen days of the month. Delaying Plaintiff Martin's salary payment until June 30, 2023 deprived them of those funds in violation of Massachusetts law. *See* M.G.L. c. 149 § 148.

---

<sup>3</sup> Neither Plaintiff Martin nor Plaintiff Amodeo were ever provided a method of accessing their paystubs other than through Defendant's Workday platform, and therefore lost access to their paystubs when they separated from employment with Defendant. Consequently, Plaintiffs have no record of their regular salary deduction breakdowns, nor of their vacation time, sick time, and other benefit accruals.

21. Throughout their employment within the relevant statute of limitations, Defendant paid Plaintiff Martin approximately \$79,099.67 of their gross wages later than required by law.<sup>4</sup>

22. In addition, on May 31, 2022, Defendant should have paid Plaintiff Amodeo in the gross amount of approximately \$6,653.18 for the pay period commencing on May 1, 2022, and ending May 31, 2022, even though Plaintiff Amodeo never elected to be paid monthly.

23. Defendant should have paid Plaintiff Amodeo approximately \$3,326.59 no later than May 21, 2022 for the work she performed during the first fifteen days of the month. Delaying Plaintiff Amodeo's salary payment until May 31, 2022 deprived her of those funds in violation of Massachusetts law. *See* M.G.L. c. 149 § 148

24. Throughout her employment as an exempt employee within the relevant statute of limitations, Defendant paid Plaintiff Amodeo approximately \$22,532.93 of her gross wages later than required by law. *Id.*

## V. CLASS ACTION ALLEGATIONS

25. Plaintiffs bring this Action individually, and on behalf of all other members of the Class.

26. The Class is defined as follows:

All Massachusetts exempt staff, exempt trustee-appointed staff, and exempt faculty members employed by Defendant, who were paid monthly during the three years immediately preceding December 2, 2024 and continuing through the date of final judgment in this matter.<sup>5</sup>

---

<sup>4</sup> Plaintiff Martin was on a continuous medical leave of absence for approximately 4 months between mid-January 2023 until early May 2023. Plaintiff Martin's single damages for this time period have been reduced accordingly.

<sup>5</sup> Pursuant to *American Pipe & Construction Co. v. Utah*, the filing of a class action tolls the statute of limitations for all asserted members of the class until class certification is resolved. *See American Pipe & Construction Co. v. Utah*, 414 U.S. 538, 553-554 (1974). In this case, Plaintiffs' Counsel initiated a nearly identical class action in this Court on December 2, 2024, on behalf of Plaintiff Jessi Fournier and the Class (Civil Action No. 2480CV00137). Accordingly, the statute of limitations for the claims asserted in this action has been tolled during the pendency of the *Fournier* action. *Id.*

27. Class certification for this Massachusetts state law claim is appropriate under Rule 23 of the Massachusetts Rules of Civil Procedure because all of the requirements of Rule 23 are met.

28. The Class is so numerous that joinder of all Class Members is impracticable. Upon information and belief, there are hundreds of workers who were employed by Defendant and subjected to the policies and/or practices challenged herein during the period of the claim.

29. There are questions of law and fact common to the Class, including whether Defendant's policy and/or practice of paying their exempt employees on a monthly basis violates the Wage Act, and whether Class Members elected to be paid in this manner.

30. The claims of Plaintiffs are typical of those of the Class Members. The claims of the Plaintiffs encompass Defendant's challenged course of conduct. Furthermore, the claims of the Plaintiffs are based on the same legal theories as the claims of the Class Members. The legal issues as to the violation of the Wage Act by Defendant's conduct applies equally to Plaintiffs and to the Class.

31. Plaintiffs will fairly and adequately protect the interests of the Class. The claims of the Plaintiffs are not antagonistic to those of the Class and Plaintiffs have hired counsel skilled in the prosecution of class actions.

32. Common questions of law and fact predominate over questions affecting only individuals, and a class action is superior to other available methods for the fair and efficient adjudication of this controversy. This proposed class action is the superior method of adjudication because it presents few management difficulties, conserves the resources of the Parties and the court system, protects the rights of each Class Member, and maximizes recovery to the Plaintiffs and the Class.

## VI. LEGAL CLAIMS

### COUNT I: Violation of the Massachusetts Wage Act For Late Payment of Wages By Plaintiffs and the Class

33. Plaintiffs reallege and incorporate herein the allegations contained in each and every other paragraph of this Complaint.

34. Defendant maintains a policy to pay the Class their regular wages only on the final business day of each month, even though Plaintiffs and Class Members did not elect to be paid monthly. *See* M.G.L. c. 149 § 148.

35. Defendant's policy of paying its exempt employees on the last business day of the month resulted in all wages earned in the first half of the month being paid, at a minimum, approximately ten days late, and denies Plaintiffs and the Class the prompt and timely payment of their wages and the use of those wages, all in violation of the Wage Act. *Id.*

36. As a result, Defendant is liable to Plaintiffs and the Class for three times the amount of the late paid wages, plus interest, costs, and attorneys' fees. *See* M.G.L. c. 149 § 150; *Reuter* at 781.

## VII. DEMAND FOR RELIEF

WHEREFORE, Plaintiffs, and on behalf of themselves of all others similarly situated, request that the Court:

- A. Certify this Action as a class action pursuant to M.G.L. c. 149 § 148;
- B. In the alternative, certify this case as a class action pursuant to Rule 23 of the Massachusetts Rules of Civil Procedure;
- C. Appoint Plaintiff Martin and Plaintiff Amodeo as Class Representatives;
- D. Appoint the undersigned as Class Counsel;

- E. Award Plaintiffs and the Class treble damages pursuant to M.G.L. c. 149 §§ 148; 150;
- F. Award Plaintiffs and the Class all pre-judgment and post-judgment interest on these damages pursuant to M.G.L. c. 149 §§ 148; 150;
- G. Award service awards to Plaintiff Martin and Plaintiff Amodeo;
- H. Award attorneys' fees and costs incurred by Plaintiffs in prosecuting this Action pursuant to M.G.L. c. 149 §§ 148; 150;
- I. Issue a permanent injunction prohibiting Defendant from continuing its unlawful pay practices, i.e. its failure to pay their exempt employees on at least a bi-monthly or semi-monthly basis unless they specifically elect to be paid monthly, as required by M.G.L. c. 149 § 148; and
- J. Award such other relief as the Court deems just.

#### **VIII. JURY DEMAND**

Plaintiffs and on behalf of themselves and all others similarly situated, demand a trial by jury as to the allegations contained in this Complaint.

Dated: December 26, 2024

Respectfully submitted,

The Plaintiffs,  
JOHN T. MARTIN and DANIELLE  
AMODEO, on behalf of themselves and all  
others similarly situated,  
By their Attorneys,

/s/ Raymond Dinsmore  
Raymond Dinsmore, Esq. (BBO # 667340)  
Richard E. Hayber, Esq. (BBO # 569131)  
Ryan B. Guers, Esq. (BBO # 713870)  
Hayber, McKenna & Dinsmore, LLC  
One Monarch Place, Suite 1340  
Springfield, MA 01144  
Phone: (413) 785-1400  
Fax: (860) 218-9555  
Email: rdinsmore@hayberlawfirm.com  
rhayber@hayberlawfirm.com  
rguers@hayberlawfirm.com

*Attorneys for Plaintiffs and the Putative  
Class Members*

RECEIVED

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF THE TRIAL COURT

HAMPSHIRE, ss.

SUPERIOR COURT

**JOHN T. MARTIN and DANIELLE  
AMODEO, on behalf of themselves and all  
others similarly situated,**

**Plaintiffs,**

**v.**

**AMHERST COLLEGE,**

**Defendant.**

**C.A. No. 2480CV00146**

**AMENDED ANSWER TO COMPLAINT**

In this action, Plaintiffs seek to extract an exorbitant sum in statutory penalties from Defendant Trustees of Amherst College (“the College” or “Defendant”)<sup>1</sup> based on a perceived technical violation of the timely payment requirements of the Wage Act, where there has been no material harm to Plaintiffs or any member of the class they aspire to represent. These claims are so predatory in nature as to raise several categories of due process concerns under the federal Constitution and the Massachusetts Declaration of Rights. Further, Plaintiffs’ effort to pursue their claims on a class action basis will necessarily be frustrated by the fact that their theory of liability inherently raises factual questions that are individual to each employee (i.e., did each individual “elect” to be paid monthly, as the Wage Act expressly permits).

Defendant hereby answers the Complaint. Any allegation of the Complaint not expressly admitted is deemed denied.

---

<sup>1</sup> “Trustees of Amherst College” is the proper corporate name for the College.

**INTRODUCTION**

1. This paragraph contains legal conclusions to which no response is required. To the extent there are factual allegations contained herein, they are denied.

2. Defendant denies the allegations in this paragraph.

3. Defendant denies the allegations in this paragraph.

**PARTIES**

4. Defendant admits the allegations in this paragraph.

5. Defendant lacks information or knowledge sufficient to admit or deny the allegations in this paragraph.

6. Defendant lacks information or knowledge sufficient to admit or deny the allegations in this paragraph.

**JURISDICTION**

7. This paragraph contains legal conclusions to which no response is required. To the extent there are factual allegations contained herein, they are denied.

8. This paragraph contains legal conclusions to which no response is required. To the extent there are factual allegations contained herein, they are denied.

9. Defendant states there was no Exhibit A attached to the Complaint, and therefore, Defendant cannot sufficiently answer this paragraph of the Complaint. Defendant denies any knowledge of the allegations in this paragraph.

10. Defendant states there was no Exhibit B attached to the Complaint, and therefore, Defendant cannot sufficiently answer this paragraph of the Complaint. Defendant denies any knowledge of the allegations in this paragraph.

**FACTS**

11. Defendant admits the allegations in this paragraph, except to deny the allegations related to Plaintiff Martin's salary history during his time employed by the Defendant, including the allegations in Footnote 1.

12. Defendant admits the allegations in this paragraph, except to state Plaintiff Amodeo's most recent position was Associate Director of Public Programs and Communications, and to deny the allegations related to Plaintiff Amodeo's salary history during her time employed by the Defendant, including the allegations in Footnote 2.

13. Defendant admits that it paid Plaintiffs Martin and Amodeo monthly on the final business day of the month during their tenure of employment. Defendant denies any allegations pertaining to a "Class" as that "Class" has not been properly defined or certified under Mass. R. Civ. P. 23, and Defendant contends that certification of the class that Plaintiffs aspire to represent is improper.

14. Defendant denies the allegations in this paragraph.

15. Defendant states that the document referenced in this paragraph speaks for itself, and therefore, no response is required.

16. Defendant states that the document referenced in this paragraph speaks for itself, and therefore, no response is required.

17. Defendant states that the document referenced in this paragraph speaks for itself, and therefore, no response is required.

18. Defendant states that the document referenced in this paragraph speaks for itself, and therefore, no response is required.

19. Defendant denies the allegations in this paragraph and in footnote 3. Responding further, Defendant lacks sufficient information to form a belief as to whether Plaintiffs have retained pay records associated with their employment by Defendant.

20. Defendant denies the allegations in this paragraph.

21. Defendant denies the allegations in this paragraph and in footnote 4.

22. Defendant denies the allegations in this paragraph.

23. Defendant denies the allegations in this paragraph.

24. Defendant denies the allegations in this paragraph.

**CLASS ACTION ALLEGATIONS**

25. This paragraph contains legal conclusions to which no response is required. To the extent there are factual allegations contained herein, they are denied.

26. This paragraph and footnote 5 contain legal conclusions to which no response is required. To the extent there are factual allegations contained herein, they are denied.

27. This paragraph contains legal conclusions to which no response is required. To the extent there are factual allegations contained herein, they are denied.

28. This paragraph contains legal conclusions to which no response is required. To the extent there are factual allegations contained herein, they are denied.

29. This paragraph contains legal conclusions to which no response is required. To the extent there are factual allegations contained herein, they are denied.

30. This paragraph contains legal conclusions to which no response is required. To the extent there are factual allegations contained herein, they are denied.

31. This paragraph contains legal conclusions to which no response is required. To the extent there are factual allegations contained herein, they are denied.

32. This paragraph contains legal conclusions to which no response is required. To the extent there are factual allegations contained herein, they are denied.

**LEGAL CLAIMS**

**COUNT I: Violation of the Massachusetts Wage Act For Late Payment of Wages by Plaintiffs and the Class**

- 33. Defendant reasserts and incorporates its answers to Paragraphs 1-32 herein.
- 34. Defendant denies the allegations in this paragraph.
- 35. Defendant denies the allegations in this paragraph.
- 36. Defendant denies the allegations in this paragraph.

**ADDITIONAL DEFENSES<sup>2</sup>**

**FIRST ADDITIONAL DEFENSE**

Plaintiffs' claims for statutory multiple damages under the Wage Act seek to recover many millions of dollars from the Defendant in relation to a practice that caused no material economic harm to Plaintiffs or any member of the putative class they aspire to represent. As such, an award of the statutory multiple damages that Plaintiffs seek would be radically disproportionate to any harm for which the statute provides a remedy, in violation of the due process provisions of the United States Constitution and analogous provisions of the Massachusetts Declaration of Rights.

**SECOND ADDITIONAL DEFENSE**

Defendant acted in good faith and with reasonable grounds to believe that it was not violating the law. As such, any claim for multiple, liquidated or otherwise enhanced damages in

---

<sup>2</sup> By advancing the Additional Defenses noted below, Defendant seeks only to put Plaintiffs and the Court on notice of those defenses to Plaintiffs' claims that are not captured by Defendants' responses to the specific allegations in Plaintiffs' Complaint. Defendant in no way assumes the burden of proof on any issue as to which Plaintiffs bear the burden under the governing legal standards.

this case would violate the due process provisions of the United States Constitution and analogous provisions of the Massachusetts Declaration of Rights.<sup>3</sup>

### **THIRD ADDITIONAL DEFENSE**

Certification of the class that Plaintiff aspires to represent would violate the due process rights of certain putative class members, in violation of the United States Constitution and analogous provisions of the Massachusetts Declaration of Rights, because the Massachusetts Rules of Civil Procedure prohibit members of a certified class from excluding themselves from the action, curtailing their ability to pursue damages that may arise from their individual circumstances (instead of or in addition to statutory multiple damages) and/or imposing on members of the putative class a material claim against their employer that they do not wish to pursue.

### **FOURTH ADDITIONAL DEFENSE**

Plaintiffs' claims are not suitable for class treatment because, among other reasons, the claims could not be tried without shifting Plaintiffs' burden of proof with respect to whether class members elected to be paid monthly, in violation of Defendant's due process rights, including those arising under the Seventh Amendment to the United States Constitution and/or the Massachusetts Declaration of Rights.

### **FIFTH ADDITIONAL DEFENSE**

The Plaintiffs' and/or the putative class members' claims fail because G.L. c. 149, § 148 dictates that compensation paid to certain employees of educational institutions "shall be deemed to be fully earned at the end of the school year," and the statute expressly permits educational institutions to defer salaries for such employees, including by paying some or all of their employees in "equal payments . . . for a 12 month period."

---

<sup>3</sup> Contemporaneously with the filing of this Answer, Defendant will provide notice of its intent to pursue constitutional defenses in this matter to the Attorney General in accordance with Mass. R. Civ. P. 24(d).

**SIXTH ADDITIONAL DEFENSE**

Some or all of the Plaintiffs' and/or the putative class members' claims and/or claimed damages are barred by the charitable immunity statute, G.L. c. 231, § 85K.

**SEVENTH ADDITIONAL DEFENSE**

Plaintiffs' claims and/or the putative class members' claims are barred, in whole or in part, for failure to exhaust the required administrative remedies and/or comply with statutory or jurisdictional prerequisites, including with respect to standing.

**EIGHTH ADDITIONAL DEFENSE**

Some or all of the claims asserted in the Complaint are barred, in whole or in part, by the applicable statutes of limitation.

**NINTH ADDITIONAL DEFENSE**

Plaintiffs, in addition to at least some members of the class they aspire to represent, have reposed and acquiesced in the cadence of pay described in the Complaint without ever suggesting to Defendant that they had not effectively elected to be paid monthly or requesting that they be paid on any other cadence during their employment with Defendant. As such, they are equitably estopped from pursuing substantial statutory penalties in relation to an arrangement to which they never objected or communicated the basis for any legal claim to Defendant before commencing this action in pursuit of substantial statutory penalties.

**TENTH ADDITIONAL DEFENSE**

Plaintiffs' and/or the putative class members' claims are barred, in whole or in part, to the extent Plaintiffs' and/or the putative class members' recovery, if any, is subject to a valid set-off and/or the doctrine of payment.

#### **ELEVENTH ADDITIONAL DEFENSE**

The damages claimed by Plaintiffs and/or the putative class members are barred to the extent they are speculative in nature.

#### **TWELFTH ADDITIONAL DEFENSE**

Some of or all of the claims asserted in the Complaint and/or some of the potential claims of putative class members are barred by the equitable doctrines of laches, waiver by conduct or writing, forfeiture of entitlement, estoppel, unjust enrichment, *in pari delicto*, and/or unclean hands.

#### **THIRTEENTH ADDITIONAL DEFENSE**

Some or all of the claims in the Complaint are barred because even if any of the alleged harms did occur, which is specifically denied, Plaintiffs and/or the putative class members did not suffer any injury resulting directly or proximately therefrom, or such injuries were *de minimis* and therefore not compensable.

#### **FOURTEENTH ADDITIONAL DEFENSE**

Some or all of the putative class members' claims are barred by the doctrines of accord and satisfaction and/or release to the extent that they have entered into contracts with Defendant concerning their employment or separation therefrom.

#### **FIFTEENTH ADDITIONAL DEFENSE**

Plaintiffs are not entitled to pursue a class action pursuant to Massachusetts Rule of Civil Procedure 23 because they have not identified, and cannot identify, a group of similarly-situated employees and any putative class is not ascertainable because the essential question posed by Plaintiffs' claims is whether each member of the putative class "elected" to be paid on the cadence described in Plaintiffs' Complaint, which necessarily implicates detailed factual inquiries of each

class member and his/her relationship with Defendant to determine whether they are members of the class that Plaintiffs aspire to represent.

#### **SIXTEENTH ADDITIONAL DEFENSE**

Certification of the class proposed in Plaintiffs' Complaint is improper because, among other reasons, Plaintiffs' interests are in conflict with the interests of all or certain members of the alleged group of persons Plaintiffs aspire to represent, because Plaintiffs are inadequate representatives of the alleged group of persons Plaintiffs purport to represent, because Plaintiffs' claims are not typical of the members of the class they represent, and because any issue common to members of the putative class will be overwhelmed by individualized issues relating to the varied circumstances of putative class members with respect to the liability issues raised in the Complaint.

#### **SEVENTEENTH ADDITIONAL DEFENSE**

All of Plaintiffs' and the putative class members' claims are barred in whole because Defendant has full immunity from such claims pursuant to the Acts and Resolves of 2025, Chapter 9, Section 113.

#### **RESERVATION OF RIGHTS**

Defendant has insufficient knowledge or information upon which to form a belief as to whether additional defenses are available, and therefore reserves the right to amend its Answer to plead, assert, rely upon additional defenses, or withdraw or delete existing defenses, including those which may be disclosed or discovered through further assertions by Plaintiffs or discovery.

#### **DEMAND FOR RELIEF**

WHEREFORE, Defendant requests that:

1. The Complaint against it be dismissed with prejudice;
2. Each and every prayer for relief in the Complaint be denied;

3. Judgment be entered in favor of Defendant;
4. Defendant be awarded its costs, attorneys' fees, and expenses in the amount and manner permitted by applicable law; and
5. Such other relief as this Court deems just and proper.

Respectfully submitted,

TRUSTEES OF AMHERST COLLEGE

By its Attorneys,



---

Gregory A. Manousos, Esq. (BBO #631455)  
Catherine M. Scott, Esq. (BBO #691867)  
MORGAN, BROWN & JOY, LLP  
200 State Street, Suite 11A  
Boston, MA 02109  
(617) 523-6666  
(617) 367-3125 (Fax)  
[cscott@morganbrown.com](mailto:cscott@morganbrown.com)  
[gmanousos@morganbrown.com](mailto:gmanousos@morganbrown.com)

Robert A. Fisher (BBO# 643797)  
[rfisher@seyfarth.com](mailto:rfisher@seyfarth.com)  
Barry J. Miller (BBO# 661596)  
[bmiller@seyfarth.com](mailto:bmiller@seyfarth.com)  
SEYFARTH SHAW LLP  
2 Seaport Lane, Suite 1200  
Boston, MA 02210  
(617) 946-4800  
(617) 946-4801 (fax)

Dated: August 20, 2025

**CERTIFICATE OF SERVICE**

I, Robert A. Fisher, hereby certify that on August 20, 2025, I have caused a true and correct copy of the foregoing to be served on via eFileMA and email upon the following:

Raymond Dinsmore, Esq.  
Richard E. Hayber, Esq.  
Ryan B. Guers, Esq.  
Hayber, McKenna & Dinsmore, LLC  
One Monarch Place, Suite 1340  
Springfield, MA 01144  
[rdinsmore@hayberlawfirm.com](mailto:rdinsmore@hayberlawfirm.com)  
[rhayber@hayberlawfirm.com](mailto:rhayber@hayberlawfirm.com)  
[rguers@hayberlawfirm.com](mailto:rguers@hayberlawfirm.com)



---

Robert A. Fisher

COMMONWEALTH OF MASSACHUSETTS

HAMPSHIRE, ss.

SUPERIOR COURT  
CIVIL ACTION  
NO. 2580CV00117

JOHN MARTIN and DANIELLE AMODEO,  
on behalf of themselves and all others similarly situated,  
Plaintiffs

v.

AMHERST COLLEGE,  
Defendants

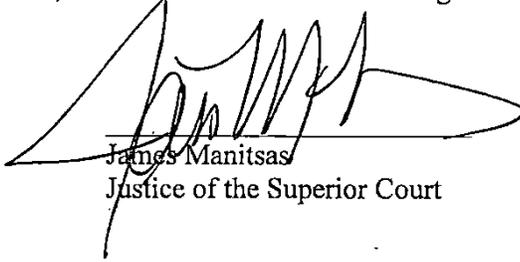
**DECISION AND ORDER ON  
DEFENDANT’S MOTION FOR JUDGMENT ON THE PLEADINGS**

The plaintiffs, John Martin and Danielle Amodeo, filed their Complaint against Amherst College on December 26, 2024 alleging that the defendant violated the timely payment requirements of the Massachusetts Wage Act by paying salaried college employees on a monthly basis. On July 4, 2025, Governor Maura Healey signed a bill into law, Section 113 of Chapter 9 of the Acts and Resolves of 2025, that terminated these claims and several other recent class action lawsuits brought to recover damages against nonprofit institutions of higher education based on monthly payments to salary employees. As a result, defendant now moves for judgment on the pleadings.

For all the same reasons, as fully analyzed and outlined in *Curtin-Wilding v. Trs of Boston Univ.*, C.A. No. 1:12-cv-10432-RGS (D. Mass. 2025), defendant motion for judgment on the pleadings shall be ALLOWED.

**ORDER**

For the foregoing reasons, the Defendant's Motion for Judgment on the Pleadings (Paper #19) is **ALLOWED**.



James Manitsas  
Justice of the Superior Court

Dated: October 30, 2025

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 25-10432-RGS

LYDIA CURTIN-WILDING,  
individually and on behalf of all others similarly situated

v.

TRUSTEES OF BOSTON UNIVERSITY

MEMORANDUM AND ORDER ON MOTION FOR JUDGMENT ON THE  
PLEADINGS, MOTION TO AMEND THE COMPLAINT, AND MOTION TO  
CERTIFY QUESTIONS OF LAW

August 27, 2025

STEARNS, D.J.

Before the court is defendant Trustees of Boston University's (BU) motion for judgment on the pleadings, Fed. R. Civ. P. 12(c), as well as plaintiff Lydia Curtin-Wilding's motions to amend the Complaint, Fed. R. Civ. P. 15(a)(2), and to certify certain questions of law to the Massachusetts Supreme Judicial Court (SJC), Mass. S.J.C. Rule 1:03. For the following reasons, the motion for judgment on the pleadings is allowed. The motions to amend the Complaint and certify questions of law to the SJC are denied.

**BACKGROUND**

The court assumes familiarity with the facts of the case. Since August of 2015, BU, a private, nonprofit research institution of higher education

with campuses in Boston, employed Curtin-Wilding as a salaried Lecturer. Compl. (Dkt. # 1) ¶ 13. BU paid Curtin-Wilding on a monthly basis on or about the last business day of each month. *Id.* ¶¶ 15, 18. She claims that BU's policy resulted in the wages that she and the putative class members earned in the first half of the month from February 18, 2022, until August 1, 2023, being paid approximately nine days late, in violation of the Massachusetts Wage Act, Mass. Gen. Laws ch. 149, § 148 (Wage Act). *Id.* ¶¶ 18, 23. Curtin-Wilding filed this putative class action on February 21, 2025. *See* Dkt. # 1. On May 23, 2025, this court denied BU's motion to dismiss the Complaint. *See* Dkt. # 34. On June 6, 2025, BU filed its Answer. *See* Dkt. # 38.

On July 4, 2025, Massachusetts Governor Maura Healey signed a budget bill into law, which included Section 113 of Chapter 9 of the Acts and Resolves of 2025 (Section 113). Section 113 provides immunity to nonprofit institutions of higher education and nonprofit organizations that comprise a health care delivery system from Wage Act lawsuits targeting the employers' monthly payment of wages to employees. *See* 2025 Mass. Acts. ch. 9, § 113.<sup>1</sup>

---

<sup>1</sup> On April 16, 2025, the Joint Committee on Labor and Workforce Development held a hearing on two bills, Bill S.1369 and Bill H.2164, which were the precursors of Section 113. *See Daggett v. Comm'n on Gov't Ethics & Election Pracs.*, 205 F.3d 445, 456 n.9 (1st Cir. 2000) (holding that the court may take judicial notice of legislative facts). At the hearing, Rob McCarron, the President of the Association of Independent Colleges and Universities in Massachusetts, testified that the proposed legislation would

Following the passage of Section 113, on July 25, 2025, BU filed a motion for judgment on the pleadings. *See* Dkt. # 39. Three days later, on July 28, 2025, Curtin-Wilding filed a motion to amend the Complaint. *See* Dkt. # 41. On August 1, 2025, she filed a motion to certify a question of law to the SJC. *See* Dkt. # 48. On August 19, 2025, Curtin-Wilding filed another motion to certify additional questions of law to the SJC. *See* Dkt. # 56. Before the court are the pertinent motions, which the court will discuss in turn.

## DISCUSSION

### 1. Motion for Judgment on the Pleadings

Rule 12(c) permits a party to move for judgment on the pleadings at any time “[a]fter the pleadings are closed,” as long as the motion does not delay the trial. Fed. R. Civ. P. 12(c). A Rule 12(c) motion differs from a Rule 12(b)(6) motion in that it implicates the pleadings as a whole. “In the

---

correct “unintended consequences” of the Wage Act, manifesting in the filing of multiple class action lawsuits against universities in Massachusetts. *See* Higher Educ. Hearing (Constitutional Amendment/Higher Education: Hearing on S.1369, H.2164 Before the Joint Comm. on Lab. & Workforce Dev., 194th Gen. Ct. (Mass. 2025) (statement of Rob McCarron) (Dkt. # 50-2)) at 2:23. On May 29, 2025, the bills were also discussed at a supplemental budget hearing. The Senate proposed amendments to the legislation and appointed a joint conference committee to reconcile the differences. On June 30, 2025, the House and Senate accepted the conference committee reports and enacted the budget legislation.

archetypical case, the fate of such a motion will depend upon whether the pleadings, taken as a whole, reveal any potential dispute about one or more of the material facts.” *Gulf Coast Bank & Trust Co. v. Reder*, 355 F.3d 35, 38 (1st Cir. 2004). “Because [a Rule 12(c)] motion calls for an assessment of the merits of the case at an embryonic stage, the court must view the facts contained in the pleadings in the light most favorable to the nonmovant and draw all reasonable inferences therefrom. . . .” *Perez-Acevedo v. Rivero-Cubano*, 520 F.3d 26, 29 (1st Cir. 2008), quoting *R.G. Fin. Corp. v. Vergara-Nunez*, 446 F.3d 178, 182 (1st Cir. 2006).

BU argues that judgment on the pleadings is appropriate because Section 113 provides statutory immunity to BU based on a plain reading of the legislation. *See* Dkt. # 40 at 6. Curtin-Wilding concedes that Section 113 “grants immunity only to ‘nonprofit institutions,’” *see* Dkt. # 42-1 at 2, but challenges the constitutionality of Section 113, claiming that it: (a) is an unreasonable and inequitable retroactive statute under the United States and Massachusetts Constitutions, *see* Dkt. # 50 at 9; (b) is an impermissible selective exemption to standing laws in violation of Article X of the Massachusetts Declaration of Rights, *see* Dkt. # 50 at 6; and (c) violates the remedies clause of Article XI of the Massachusetts Declaration of Rights, *see* Dkt. # 50 at 20.

The Wage Act requires that:

Every person having employees in his service shall pay weekly or bi-weekly each such employee the wages earned by him to within six days of the termination of the pay period during which the wages were earned if employed for five or six days in a calendar week, or to within seven days of the termination of the pay period during which the wages were earned if such employee is employed seven days in a calendar week.

Mass. Gen. Laws ch. 149, § 148. However, Section 113 provides that:

Nonprofit institutions of higher education and nonprofit organizations that comprise a health care delivery system shall be immune from liability with regard to any claim or cause of action seeking a legal or equitable remedy or other relief commenced between July 1, 2024 and September 30, 2028, inclusive, that alleges that the institution's or organization's payment of wages on a monthly basis or pursuant to any written policy, schedule, or agreement presented or made available to an employee concerning payment for work performed over an academic term violated section 148 of chapter 149 of the General Laws; provided, however, that earned wages shall have been paid in full within 6 days of the termination of a pay period occurring: (i) on a monthly basis; or (ii) pursuant to any written policy, schedule or agreement presented to an employee concerning payment for work performed over a specific period or an academic term.

2025 Mass. Acts. ch. 9, § 113. The court agrees with the parties that the plain language of Section 113 immunizes BU from liability for Curtin-Wilding's Wage Act claim that BU paid her on a monthly basis. *See Summit Inv. and Development Corp. v. Leroux*, 69 F.3d 608, 610 (1st Cir. 1995) (holding that words in a statute are to be given their plain meaning unless a literal interpretation leads to an absurd result). Curtin-Wilding's claim, which was

filed on February 21, 2025, squarely falls within the applicable statutory period.<sup>2</sup>

### **A. Retroactive Application of Law**

“The legal analysis of whether retroactive statutes violate the Due Process Clause of the United States Constitution is that also followed as to the Massachusetts Constitution.” *Dutra v. Trs. of Bos. Univ.*, 96 F.4th 15, 19-20 (1st Cir. 2024), citing *Nantucket Conservation Found., Inc. v. Russell Mgmt., Inc.*, 380 Mass. 212, 214 (1980); see *Am. Mfrs. Mut. Ins. Co. v. Comm’r of Ins.*, 374 Mass. 181, 194 (1978) (“[W]e perceive no need for separate analysis of [plaintiffs’] various contentions under the impairment-of-contracts clause and under the [D]ue [P]rocess [C]lause of the United States Constitution and cognate State constitutional provisions.”). “Retroactive legislation must satisfy the due process test: ‘a legitimate legislative purpose furthered by rational means.’” *Dutra*, 96 F.4th at 20, quoting *Gen. Motors Corp. v. Romein*, 503 U.S. 181, 191 (1992). “A

---

<sup>2</sup> Curtin-Wilding argues that BU must amend its Answer to include its unpled affirmative defense of immunity under Section 113 before moving for judgment on the pleadings. See Dkt. # 50 at 3. BU contends that Section 113 is not an affirmative defense. See Dkt. # 55 at 2. “When an affirmative defense is ‘definitively ascertainable from the complaint and other allowable sources’ and the facts are “suffic[ient] to establish the affirmative defense with certitude,” a court may grant a Rule 12(c) motion. *Taylor v. Milford Reg’l Med. Ctr., Inc.*, 733 F. Supp. 3d 8, 13 (D. Mass. 2024), quoting *Gray v. Evercore Restructuring L.L.C.*, 544 F.3d 320, 324 (1st Cir. 2008).

legislative enactment carries with it a presumption of constitutionality, and the challenging party must demonstrate beyond a reasonable doubt that there are no conceivable grounds which could support its validity.” *Id.* (citation and internal quotation marks omitted). “Only those statutes which, on a balancing of opposing considerations, are deemed to be unreasonable, are held to be unconstitutional.” *Id.*

In evaluating the reasonableness of a retroactive statute, the court weighs three factors:

(1) the nature of the public interest which explicitly or may have motivated the Legislature to enact the retroactive statute; (2) the nature of the rights affected retroactively and the reasonableness of any reliance expectations on those rights; and (3) the extent or scope of the statutory effect or impact, including whether the statute is appropriate and narrowly tailored.

*Id.*

As to the first factor, the court finds Section 113 serves the public interest by addressing “the devastating financial impact” of these Wage Act claims to Massachusetts institutions of higher education. *See Higher Educ. Hearing at 3:14-23.* McCarron, President of the Association of Independent Colleges and Universities in Massachusetts, testified before the Joint Committee on Labor and Workforce about the bill, which would become Section 113. He referenced this lawsuit and others like it:

[The lawsuits] place[] hundreds of millions of dollars and even billions of dollars at issue. It is very important to note that all of the employees of the institutions that have been targeted by these class action lawsuits received their full pay and on a regularly scheduled basis. There are no allegations that any employee was paid less than what they were owed, and there are no allegations that any employee was paid later than the established pay structure. Again, the intent of the Mass Wage Act is to go after those unscrupulous employers and there is no allegation of any of that in these cases. And the financial harm to the institutions is entirely disproportionate to the damages suffered by the affected employees, and the resulting harm to the institutions would dramatically affect their ability to serve students and employees.

Higher Educ. Hearing at 4:2-20. At the conclusion of McCarron’s testimony, Representative McCurty stated:

Look, we and the legislature, we try to do the best we can but we don’t get it right all the time and occasionally there’s an unintended consequence. One of the beauties of the work that we do is have an opportunity to go back and, you know, address these matters. So, its really important that you are here.

*Id.* at 6:12-18. The “Legislature is well aware that Massachusetts is home to a number of colleges and universities, and they are vital to the state’s economy.” *Dutra*, 96 F.4th at 22. Private, nonprofit colleges in the Commonwealth “educate 290,000 students and employ nearly 100,000 people . . . and represent a \$71 billion impact for the state each year.” *See* Higher Educ. Hearing at 2:14-17. And “[e]ven if the statute disproportionately benefits private actors, that does not mean it was enacted

contrary to public interest.” *Rodrigues v. Coll.*, 710 F. Supp. 3d 95, 100 (D. Mass. 2024).

As to the second factor, the court finds that Section 113 is based upon “reasonable conditions and of a character appropriate to the public purpose justifying its adoption.” *U.S. Tr. Co. of New York v. New Jersey*, 431 U.S. 1, 22 (1977), citing *Hudson Water Co. v. McCarter*, 209 U.S. 349, 445-447 (1908). Although Curtin-Wilding alleges that had she known the Legislature was “prepared to deny her, but no other category of employee, protection under the Wage Act, she certainly would not have undertaken the time, expense, and personal and professional risk to vindicate her rights,” *see* Dkt. # 50 at 17, she does not persuasively show that she would have acted differently, other than forego the filing of her lawsuit, had she known Section 113 would be enacted. *See Dupont v. Chief of Police of Pepperell*, 57 Mass. App. Ct. 690, 694 (2003) (holding that parties challenging the reasonableness of a retroactive statute “must show that they acted in reasonable reliance upon the previous state of law” and “would not have acted differently had [they] known [the statute at issue] would be enacted”). There are no allegations that Curtin-Wilding, a BU employee since 2015, otherwise contested her monthly payment of wages. Nor are there any

allegations that BU paid Curtin-Wilding less than what she was owed or later than the established monthly pay structure.

Lastly, under the third factor, the court determines that the “extent of the impact is not excessive.” *See Dutra*, 96 F.4th at 25 (courts “weigh the ‘duration of the burden imposed by the retroactive statute’ and ‘whether the scope of the statute is narrowly drawn to treat the problem perceived by the legislature’”), quoting *Sliney v. Previte*, 473 Mass. 283, 294 (2015). The statute will affect a relatively small number of cases and is narrowly drawn to address a public policy concern determined by the Legislature to be detrimental to the welfare of the Commonwealth. *See Parello v. McKinney*, 46 Mass. App. Ct. 785, 792 (1999) (holding that the scope of a statute was not excessive because the statute affected a relatively small number of pending cases), citing *Leibovich v. Antonellis*, 410 Mass. 568, 579 (1991). In this claim, immunity is “confined to suits that commenced within the specified time frame” between July 1, 2024 and September 30, 2028. *See* 2025 Mass. Acts. ch. 9, § 113; *Dutra*, 96 F.4th at 24. The legislation only affects those suits in which a technical violation of the Wage Act occurred – Section 113 does not provide immunity to higher education institutions that have not paid in full employees’ wages “within 6 days of the termination of a pay period occurring: (i) on a monthly basis; or (ii) or pursuant to any written

policy, schedule or agreement presented to an employee.” *See* 2025 Mass. Acts. ch. 9, § 113. Accordingly, the court finds that a balancing of all three factors weighs in favor of retroactive application of Section 113 to this case.

### **B. Article X of the Massachusetts Declaration of Rights**

Curtin-Wilding contends that Section 113 violates Article X of the Massachusetts Declaration of Rights because it is a “special legislation” that is designed to insulate a handful of employers, including Harvard University, Amherst College, Worcester Polytechnic Institute, Curry College, and Mass General Brigham (all of whom face pending Wage Act lawsuits). *See* Dkt. # 50 at 6.

Article X of the Massachusetts Constitution provides that “[e]ach individual of the society has a right to be protected by it in the enjoyment of h[er]s life, liberty and property, according to standing laws.” Mass. Const. pt. 1., art. X. It thereby “prohibits the enactment of special legislation that singles out any person for special privileges or advantages at the expense of the rights of another.” *Kienzler v. Dalkin Shield Claimants Tr.*, 426 Mass. 87, 89 (1997) (internal citations and quotations omitted). Courts have defined “special legislation” as “legislation addressed to a particular situation, that does not establish a rule of future conduct with any substantial

degree of generality, and may provide ad hoc benefits of some kind for an individual or a number of them.” *Id.* at 89 n.2.

Section 113 applies equally to all “[n]onprofit institutions of higher education” – it does not benefit an individual in the way Article X prohibited. 2025 Mass. Acts. ch. 9, § 113; *see Donahue v. City of Boston*, 264 F. Supp. 2d 74, 83 (D. Mass. 2003) (holding that a statute at issue was not a “special legislation” that violated the Constitution of the Commonwealth of Massachusetts because it applied equally to all applicants to the Boston Police and Fire Departments who took the civil service exam after the statute’s enactment). And as Curtin-Wilding concedes, Section 113 does not mention by name the six university employers facing Wage Act violation claims. *See* Dkt. # 50 at 7.

### **C. Article XI of the Declaration of Rights**

Lastly, Curtin-Wilding contends that Section 113 violates the remedies clause of Article XI of the Massachusetts Declaration of Rights because it strips her of all remedies for her untimely pay. *See* Dkt. # 50 at 20.

Article XI of the Massachusetts Declaration of Rights guarantees that:

Every subject of the commonwealth ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which [s]he may receive in h[er] person, property, or character. [S]he ought to obtain right and justice freely, and without being obliged to purchase it; completely, and without any denial; promptly, and without delay; conformably to the laws.

*Graizzaro v. Graizzaro*, 36 Mass. App. Ct. 911, 912 (1994), citing Mass. Const. pt. 1., art. XI. However, the retroactive application of Section 113 to Curtin-Wilding’s claim in this case is a reasonable exercise of the Legislature’s authority. Moreover, Article XI’s guarantee of “‘a certain remedy . . . for all injuries . . . which [one] may receive’ has never been construed to grant to any person ‘a vested interest in any rule of law entitling [such person] to insist that it shall remain unchanged for his benefit.’” *Decker v. Black & Decker Mfg. Co.*, 389 Mass. 35, 44 (1983) (alteration in original), quoting *New York Cent. R.R. v. White*, 243 U.S. 188, 198 (1917).<sup>3</sup>

## **2. Motion to Certify Questions of Law to the SJC**

Curtin-Wilding asks this court to certify the following questions of law to the SJC:

- (1) Would the retroactive application of the immunities provided by Section 113 of Chapter 9 of the Acts of 2025 violate the due process rights under the Massachusetts Declaration of Rights of the Plaintiff and putative class members who were employees at BU paid monthly in violation of the Wage Act who have pending claims for penalty damages arising out of violations of the Wage Act occurring prior to the enactment of Section 113?

---

<sup>3</sup> The Massachusetts Constitution expressly permits the legislature to alter or repeal statutes. *See Pinnick v. Cleary*, 360 Mass. 1, 14 (1971) (“[C]hanges in prior law are necessary in any ordered society, and to argue that art. 11 prohibits alterations of common law rights as such, especially in the face of the specific provision to the contrary in art. 6, flies in the face of all reason and precedent.”).

- (2) Does Section 113 constitute an impermissible selective exemption to Massachusetts standing laws in violation of Article X of the Massachusetts Declaration of Rights?
- (3) Does Section 113 violate the Article XI of the Massachusetts Declaration of Rights insofar as it extinguishes all legal and equitable remedies available to Plaintiff and the putative class under the Massachusetts Wage Act based on monthly pay violations?

Dkt. # 56 at 4-5.

The SJC permits federal courts to certify questions of Massachusetts law “which may be determinative of the cause then pending in the certifying court and as to which it appears to the certifying court there is no controlling precedent in the decisions of [the SJC].” Mass. S.J.C. Rule 1:03; *see also Nicholls v. Veolia Water Cont. Operations USA, Inc.*, 144 F.4th 354, 358 (1st Cir. 2025). Certification is necessary only “when ‘the course [the] state court[] would take is [not] reasonably clear.’” *Easthampton Sav. Bank v. City of Springfield*, 736 F.3d 46, 51 (1st Cir. 2013) (alterations in original).

Here, the SJC has “clearly articulated the method by which Massachusetts statutes are to be interpreted.” *Nicholls*, 144 F.4th at 358, citing *MacLaurin v. City of Holyoke*, 475 Mass. 231 (2016). Because the state court and First Circuit have provided the framework to analyze the constitutionality of the retroactive application of a statute and alleged

violations of Article X and Article XI of the Massachusetts Declaration of Rights, certification of the questions of law are not warranted.<sup>4</sup>

### **3. Motion to Amend the Complaint**

Curtin-Wilding seeks leave to file an Amended Complaint to: (a) add BU President Melissa L. Gilliam and BU Treasurer Nicole K. Tirella as named defendants; (b) add a cause of action for unjust enrichment under Massachusetts common law; (c) amend the late payment allegations; and (d) add 28 U.S.C. § 1332(a) as a basis for this court’s jurisdiction. *See* Dkt. # 42 at 1.

A party seeking to amend a complaint more than 21 days after “service of a responsive pleading or . . . motion under Rule 12(b), (e), or (f)” must seek leave of court to do so. Fed. R. Civ. P. 15(a). When deciding a motion to amend, the court’s task is to determine whether “justice . . . requires” that leave to amend be granted. *Id.* A motion to amend may be denied where the exercise is futile. *Hatch v. Dep’t for Child., Youth & Their Fams.*, 274 F.3d 12, 19 (1st Cir. 2001). Futility means that the complaint, as amended, would

---

<sup>4</sup> The court additionally notes that Curtin-Wilding filed this suit, solely raising a state-law claim under the Massachusetts Wage Act, in federal court. A party “who chooses the federal courts in diversity actions is in a peculiarly poor position to seek certification . . . .” *Ken’s Foods, Inc. v. Steadfast Ins. Co.*, 36 F.4th 37, 44 (1st Cir. 2022), quoting *Cantwell v. Univ. of Mass.*, 551 F.2d 879, 880 (1st Cir. 1977).

fail to state a claim upon which relief could be granted. *Glassman v. Computervision Corp.*, 90 F.3d 617, 623 (1st Cir. 1996). When leave to amend is sought before discovery is complete and neither party has moved for summary judgment, the district court, in reviewing for futility, applies “the same standard of legal sufficiency as applies to a Rule 12(b)(6) motion.” *Id.*

### **A. BU’s President and Treasurer**

First, Curtin-Wilding seeks to add BU’s President Gilliam and Treasurer Tirella as defendants to her Wage Act claim and argues that Section 113 “grants immunity only to ‘nonprofit institutions’ (not individuals).” *See* Dkt. # 42-1 at 2.

The court “will not adopt a literal construction of a statute if the consequences of such construction are absurd or unreasonable.” *Att’y Gen. v. Sch. Comm. of Essex*, 387 Mass. 326, 336 (1982); *see Wild v. Constantini*, 415 Mass. 663, 668 (1993) (“Reason and common sense are not to be abandoned in the interpretive process, as it is to be supposed that the Legislature intended to act in accordance with them.”). When such is the case, “[t]he legislative intention in enacting the statute must be ascertained, ‘not alone from the literal meaning of its words, but from a view of the whole system of which it is but a part . . .’” *Killam v. March*, 316 Mass. 646, 650

(1944). No reasonable legislative purpose of Section 113 would be served by immunizing BU, an institution of higher education, yet holding its President and Treasurer<sup>5</sup> liable for purported violations of the Wage Act. To interpret Section 113 in that way “would produce a result at odds with the intent of the statute” and defy common sense. *Cook v. Patient Edu, LLC*, 465 Mass. 548, 554 (2013).<sup>6</sup>

---

<sup>5</sup> Gilliam and Tirella were not BU officers serving at the time of Curtin-Wilding’s claim, which spans from February 18, 2022, until August 1, 2023 – Tirella was named BU’s Treasurer in January of 2024, while Gilliam became BU’s President on July 1, 2024. See Dkts. # 51-1 at 3; 51-2 at 4; *DeMego v. Nisonson*, 2017 WL 3090212, at \*2 (Mass. Super. May 25, 2017) (“Nothing in the Wage Act or in appellate decisions construing the statute indicates that someone newly hired as the president of the company becomes personally liable on their first day on the job for all wages that were allegedly earned but not paid before that time.”).

<sup>6</sup> The Wage Act provides that:

The president and treasurer of a corporation and any officers or agents having the management of such corporation shall be deemed to be the employers of the employees of the corporation within the meaning of this section.

Mass. Gen. Laws ch. 149, § 148. Massachusetts courts have interpreted this provision to mean that “a president and treasurer of a corporation are ‘jointly and severally liable with the corporation for the payment of unpaid wages.’” *Ellicott v. Am. Cap. Energy, Inc.*, 2017 WL 1294437, at \*3 (D. Mass. Apr. 3, 2017), *aff’d*, 906 F.3d 164 (1st Cir. 2018), citing *Bisson v. Ptech, Inc.*, 2004 WL 2434638, at \*1 (Mass. Super. Ct. Oct. 19, 2004); *see also Perrin v. Collaborative Eng’rs, Inc.*, 84 Mass. App. Ct. 1121, 1121 n.2 (2013) (interpreting Wage Act as “defining class of individuals subject to joint and several liability with corporation” to include “the president and treasurer of a corporation”). Where no viable claim exists against the corporate

## **B. Unjust Enrichment Claim**

The court finds that adding a cause of action for unjust enrichment is futile. A fundamental prerequisite to any unjust enrichment finding is that the enrichment be “unjust.” *See Bonina v. Sheppard*, 91 Mass. App. Ct. 622, 625 (2017) (“The plaintiff must establish ‘not only that the defendant received a benefit, but also that such a benefit was unjust.’”), quoting *Metro. Life Ins. Co. v. Cotter*, 464 Mass. 623, 644 (2013). There are no facts to suggest that Curtin-Wilding had a reasonable expectation that she would be paid other than on a monthly basis nor, as the court previously stated, does she allege that BU failed to pay her in accordance with that monthly schedule or for less than the amount she was owed. *See* FAC ¶ 32. Even assuming BU enjoyed some small incidental benefit in the few days of retention of Curtin-Wilding’s wages, it is not what a court sitting in equity would deem an affront to “the fundamental principles of justice or equity and good conscience.” *Fleer Corp. v. Topps Chewing Gum, Inc.*, 539 A.2d 1060, 1062 (Del. 1988).

## **C. Late Payment Allegations**

In her original Complaint, Curtin-Wilding alleged that BU had a practice of paying her “wages on or about the last business day of each

---

defendant, it follows that there can be no joint and several liability chargeable to its offense.

month, even though Plaintiff and Class members did not choose or elect at their own option to be paid monthly. . .” Compl. ¶ 26. Without any additional factual allegations or explanation, Curtin-Wilding seeks to amend her Complaint to allege that she was paid at intervals “less frequently” than monthly. *See* Dkt. # 42-2 (proposed Amended Complaint) at 7. The court need not credit such a conclusory, unsubstantiated allegation. *See SEC v. Tambone*, 597 F.3d 436, 442 (1st Cir. 2010) (en banc).

Because it is a futile exercise, the court will deny Curtin-Wilding’s motion to amend the Complaint.

### **ORDER**

For the foregoing reasons, BU’s motion for judgment on the pleadings is ALLOWED. Curtin-Wilding’s motion to amend the Complaint is DENIED. Curtin-Wilding’s motion to certify the questions of law to the SJC is also DENIED. The Clerk will enter judgment for BU and close the case.

SO ORDERED.

/s/ Richard G. Stearns  
UNITED STATES DISTRICT JUDGE

## CERTIFICATE OF COMPLIANCE

I hereby certify that, to the best of my knowledge, this application complies with the Massachusetts Rules of Appellate Procedure pertaining to the filing of applications, including Rules 11, 16, 20, and 21. The application is in Times New Roman 14-point font, contains 1,900 words in the argument section (Sections V and VI), and was prepared using Microsoft Word for Office 365. I have relied on the word count feature of this word processing system in preparing this certificate.

*/s/ Barry J. Miller*

---

Barry J. Miller (BBO # 661596)

SEYFARTH SHAW LLP

Seaport East

Two Seaport Lane, Suite 1200

Boston, Massachusetts 02210

(617) 946-4800

[bmiller@seyfarth.com](mailto:bmiller@seyfarth.com)

December 29, 2025

## CERTIFICATE OF SERVICE

I, Barry J. Miller, hereby certify, under the penalties of perjury, that on December 29, 2025, I caused a true and accurate copy of the foregoing to be filed and served via the Massachusetts Odyssey File & Serve site, and served by electronic mail with consent of the counsel being served, pursuant to Mass. R. A. P. 13(c):

Raymond Dinsmore, Esq.  
Ryan Guers, Esq.  
Richard Hayber, Esq.  
Hayber, McKenna, & Dinsmore, LLC  
One Monarch place, Suite 1340  
Springfield, MA 01144  
rdinsmore@hayberlawfirm.com  
rguers@hayberlawfirm.com  
rhayber@hayberlawfirm.com

Francis J. Bingham (BBO # 682502)  
Brook Hopkins (BBO # 683871)  
Bingham Hopkins LLC  
20 University Road, Suite 500  
Cambridge, MA 02138  
(617) 798-2302  
francis.bingham@binghamhopkins.com  
brook.hopkins@binghamhopkins.com

*/s/ Barry J. Miller*

---

Barry J. Miller (BBO # 661596)  
SEYFARTH SHAW LLP  
Seaport East  
Two Seaport Lane, Suite 1200  
Boston, Massachusetts 02210  
(617) 946-4800  
bmiller@seyfarth.com